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Executive Orders

EXECUTIVE ORDER BR 91 - 23

WHEREAS, the governor of the state of Louisiana pursuant to the Tax Reform Act of 1986 (the "Act") and Act 51 of the 1986 Louisiana Legislative Session has issued his Executive Order No. BR 88-35 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, which executive order includes the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1991 (the "1991 Ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1991 Ceiling and (iii) a system of central record keeping for such allocations; and

WHEREAS, the New Orleans Home Mortgage Authority has requested an allocation in the amount of $35,000,000 from the 1991 Ceiling to be used in connection with the financing of mortgage loans to finance owner occupied single family residences for low and moderate income families; and

WHEREAS, it is the intent of the governor of the state of Louisiana that this Executive Order, to the extent inconsistent with the provisions of Executive Order No. BR 88-35, supersedes and prevails over such provisions with respect to the allocation made herein;

NOW, THEREFORE, I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1991 Ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
$15,200,000	New Orleans Home Mortgage Authority	1991 Single Family Mortgage Program

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through December 31, 1991, provided that such bonds are delivered to the initial purchasers thereof on or before December 31, 1991.

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

SECTION 5: That this executive order, to the extent conflicting with the provisions of Executive Order No. BR 88-35, supersedes and prevails over the provisions of such executive order.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 3rd day of December, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 24

WHEREAS, the Congress of the United States affirmed the national goal that every American family be able to afford a decent home in a suitable environment pursuant to the Cranston-Gonzalez National Housing Act of 1990 (the "Housing Act"); and

WHEREAS, the Housing Act provides that the objective of national housing policy shall be to affirm the long-established commitment of decent, safe and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able:

1. to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;
2. to increase the nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;
3. to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;
4. to help make neighborhoods safe and livable;
5. to expand opportunities for homeownership;
6. to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and
7. to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved; and

WHEREAS, the purposes of the House Act are:

1. to help families not owning a home to save for a down payment for the purchase of a home;
2. to retain wherever feasible as housing affordable to low income families those dwelling units produced for such purpose with federal assistance;
3. to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of housing affordable to low-income and moderate-income families; and
4. to expand and improve federal rental assistance for all low-income families; and
5. to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence; and

WHEREAS, the Louisiana Housing Finance Act contained in Chapter 3-A of Title 40 of the Louisiana Revised Statutes of 1950, as amended, created the Louisiana Housing Finance Agency (the "agency") and further provided that the Louisiana Legislature found and declared that the limited resources available directly to the state of Louisiana (the "state") or its agencies may be more effectively and efficiently utilized if a single agency such as the agency is authorized and directed to coordinate housing programs administered by the state or its agencies and instrumentalities; and

WHEREAS, the agency is authorized to promulgate rules, regulations or such other procedures for the coordination of all state administered housing programs; and

WHEREAS, the agency is further authorized to accept federal, state or private financial or technical assistance and comply with any conditions for such assistance;

NOW THEREFORE I, BUDDY ROEMER, Governor of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The agency is hereby ordered and directed to act on behalf of the state in applying for or administering programs and/or resources made available pursuant to the Housing Act.

SECTION 2: The agency is hereby directed to promulgate such rules and regulations as may be necessary or convenient to allocate resources to improve housing conditions in the state on a basis consistent with the state's Comprehensive Housing Affordability Strategy (the "CHAS").

SECTION 3: The president of the agency, to the extent permitted by the Housing Act, is authorized to execute the CHAS on behalf of the governor.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 5th day of December, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER BR 91 - 25

WHEREAS, pursuant to the provisions of R.S. 39:75 Paragraph B., the Joint Legislative Committee on the Budget has notified the governor that a projected deficit exists for the general fund; and

WHEREAS, to avoid incurring a general fund deficit in accordance with R.S. 39:75 Paragraph C., certain executive actions must be instituted;

NOW THEREFORE, I, BUDDY ROEMER, Governor of the State of Louisiana, in accordance with R.S. 39:75 Paragraph C.(1), do hereby order and direct the commissioner of administration to reduce the appropriations in the following departments and schedules by the following amounts:

EXECUTIVE DEPARTMENT
- Office of Elderly Affairs
- Budget Unit: 01-8118
- Elimination of surplus funding currently unalloted $ 1,044,666

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
- Office of Engineering
- Budget Unit: 07-8276
- Elimination of remaining funds for the Ninth Ward Beautification Program $ 131,500

DEPARTMENT OF HEALTH AND HOSPITALS
- Office of the Secretary
- Budget Unit: 09-8305
- Reduction in General Fund due to projected Medicaid collections above those budgeted in state hospitals; a request for change of annual approved budget will be submitted prior to the end of the current fiscal year to offset this General Fund reduction with other means of financing $31,000,000
- Projected surplus in funding provided for upgrade of Louisiana Automated Information System $ 509,609

DEPARTMENT OF SOCIAL SERVICES
- Office of Family Support
- Budget Unit: 10-8355
- Projected surplus in funding provided for upgrade of Louisiana Automated Information System $ 378,081
- Office of Community Services
- Budget Unit: 10-8370
- Projected surplus in funding provided for upgrade of Louisiana Automated Information System $ 86,090
- Rehabilitation Services
- Budget Unit: 10-8374
- Projected surplus in funding provided for upgrade of Louisiana Automated Information System $ 45,031

OTHER REQUIREMENTS
- State Employees' Group Benefits Program
- Appropriation: 20-8XXX
- Residual funding from an appropriation distributed to state agencies and the Minimum Foundation for a Group Benefits Surcharge $ 900,000
- Retirement Contributions
- Appropriation: 20-8XXX
- Reduction funding from an appropriation to be distributed to state agencies for implementation of employer contribution rates set by the Public Retirement Systems Actuarial Committee; funding for education agencies and the Minimum Foundation Formula will remain and be distributed and all agencies shall continue to pay the actuarially established contribution rates to the Retirement Systems $23,280,133

Total $57,375,110

SECTION 2: Budget cuts pursuant to this order shall become effective December 10, 1991 at 5 p.m.

SECTION 3: If any provision or item of this order or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this order which can be given without the invalid provision, item or application, and to this end the provisions of this order are hereby declared severable.

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

of Louisiana, at the Capitol, in the City of Baton Rouge, on this 10th day of December, 1991.

Buddy Roemer
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

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

The commissioner of Agriculture and Forestry is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) and amends LAC:7.XXXIX.20101 pertaining to stumpage values.

Emergency adoption is necessary in order that the Office of Forestry fulfill the provisions of R.S. 3:4343 to assess current market values to severed forest products and timber for use in severance tax computations for 1992.

This declaration of emergency is effective upon publication until this rule takes effect through the normal promulgation process.

Title 7
AGRICULTURE AND ANIMALS
Part XXXIX. Forestry

Chapter 201. Timber Stumpage
§20101. Stumpage Values

The Office of Forestry and Tax Commission, as required by R.S. 3:4343, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computation for 1992:

1. Pine Sawtimber	$191.95 per M bd. ft.
2. All Hardwood	$ 89.91 per M bd. ft.
3. Pine Pulpwood	$ 21.83 per cord
4. Hardwood Pulpwood	$ 9.12 per cord

Paul D. Frey, State Forester
Office of Forestry

Mary K. Zervigon, Chairman
Louisiana Tax Commission

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of the Agricultural and Environmental Sciences

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).

This emergency adoption is necessary in order that the department may implement training and certification programs concerning commercial aerial pesticide applicators prior to the beginning of the 1992 agricultural season.

EMERGENCY RULE

1. Beginning with the effective date of this rule, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, must attend department-approved off-target training courses once each year to maintain their certification as a commercial aerial applicator.

2. Commercial aerial pesticide applicators who apply mixtures containing 1:1-Dimethyl-4, 4-Bipyridinium (cation) dichloride, Isopropylamine salt of glyphosate, Sulfosate Trimethylsulfonium carboxymethylaminomethylphosphonate, 4-(2, 4-Dichlorophenoxy) butyric acid, and 2,4-Dichlorophenoxyacetic acid (commonly known as Gramoxone, Roundup, Touchdown, 2, 4-DB and 2, 4-D, respectively) must register with the department once yearly on department approved forms prior to making any applications of these chemicals.

3. Commercial aerial pesticide applicators applying any concentrations of the chemicals named in Paragraph 2 above shall not apply these chemicals from a height of greater than 12 feet above the target field crops.

4. Commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, shall adhere to the following standards for fixed wing aircraft, regarding boom configurations, nozzle angles and volume of pesticides per acre.

a. The effective spray boom length shall not exceed 75 percent of the length of the wing on which the boom is attached.

b. All spray nozzles shall be oriented to discharge straight back toward the rear of the aircraft.

c. The spray boom pressure shall not exceed a maximum of thirty pounds per square inch (30 PSI).

d. If disc and core type nozzles are used, the core shall be No. 46 or larger and all metering orifices shall be 0.090 inch (D-6) or larger.

e. Unless further restricted by other regulations or labeling, the chemicals listed in Paragraph 2 above shall be applied in a minimum of five gallons of total spray mix per acre.

5. Commercial aerial pesticide applicators are prohibited from making an application of any pesticide while it is raining. For the purpose of this rule, *rain* is defined as the descent of water in drops from clouds. This prohibition shall apply in all such instances without regard to the amount or severity of the rainfall.

6. Unless further restricted by other regulations or labeling, commercial aerial pesticide applicators, with the single exception of aerial mosquito pest control applicators, are prohibited from making an application of any pesticide within

100 feet from the center of the swath and any inhabited structure, including but not limited to inhabited dwellings, schools, hospitals, nursing homes and places of business.

The effective date of this rule is January 10, 1992, and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever is shortest.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Economic Development
Real Estate Commission

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Economic Development, Real Estate Commission has adopted emergency rules and regulations affecting agency disclosure.

The purpose of this declaration of emergency, effective January 8, 1992 is to bring the existing rules and regulations into compliance with recently enacted state law until final rules take effect.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXVII. Real Estate

Chapter 34. Agency Disclosure

§3401. Definition

In addition to the definitions established by §1431 of the Louisiana Real Estate License Law, *selling agent* means a listing agent who acts alone, or a subagent, or a buyer's agent, who sells or finds and obtains a buyer for real property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18: (January 1991).

§3403. Listing Agency Disclosure

A listing agent, when entering into a listing agreement for the sale or lease of real estate, shall provide the seller/lessor with a copy of a Listing Agency Disclosure form (Appendix 1), and shall obtain a signed, dated acknowledgment of receipt from the seller/lessor or prepare a declaration of refusal to acknowledge as provided in §3409.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18: (January 1991).

§3405. Seller/Lessor Agency Disclosure

A. A real estate licensee dealing face-to-face with a prospective buyer/lessee shall provide the prospective buyer/lessee or its representative with a copy of the Seller/Lessor Agency Disclosure form (Appendix 2) signed by the licensee before the time the first of the following events occurs:

1. discussing any position the prospective buyer/lessee may wish to take in negotiating a contract to purchase, rent or lease a specific property, such as the amount of terms to be offered; provided, however, that a real estate licensee may qualify a prospective buyer/lessee to a price range or generally discuss prices and financing prior to making disclosure in accordance with this Section;

2. preparing a written offer to purchase, rent, or lease real property.

B. The licensee should retain a copy of the Seller/Lessor Agency Disclosure form signed by the prospective buyer/lessee or its representative in order to demonstrate compliance with this Section.

C. This Section does not apply to:

1. a real estate licensee who enters into a written agreement to represent a prospective buyer/lessee prior to the occurrence of either of the two preceding events; or,

2. to a real estate licensee acting as a principal and not as an agent; or,

3. to residential leases for one year or less where no sale is contemplated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18: (January 1991).

§3407. Buyer/Lessee Agency Disclosure

A. A real estate licensee representing a prospective buyer/lessee tenant shall disclose to a prospective seller/lessor or its representative the licensee's agency relationship with the prospective buyer/lessee at the first contact regarding the transaction.

B. The licensee shall provide the prospective seller/lessor or its representative with a copy of the Buyer/Lessee Agency Disclosure form (Appendix 3) no later than the first to occur of the following events:

1. first face-to-face contact with prospective seller/lessor or its representative; or,

2. first transmittal of written communication.

C. The licensee should retain a copy of Buyer/Lessee Agency Disclosure form by the prospective seller/lessor or its representative in order to demonstrate compliance with this Section.

D. This Section does not apply to:

1. a real estate licensee acting as a principal and not as an agent;

2. residential leases for terms of one year or less where no purchase is contemplated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18: (January 1991).

§3409. Refusal to Acknowledge

In any circumstance in which the seller/lessor or buyer/lessee refuses to sign an acknowledgment or receipt pursuant to this Chapter, the licensee shall sign and date a written declaration of such circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18: (January 1991).

APPENDIX 1
LISTING AGENCY DISCLOSURE FORM

The Louisiana Real Estate License Law and the Louisiana Real Estate Commission regulations require a listing agent to provide and obtain the following information when entering into a listing agreement.

Absent a written agreement to the contrary, a real estate agent is the agent or subagent of the seller/lessor under Louisiana law. As such, the listing agent acts as the agent for the seller. As such, the seller's agent owes a fiduciary duty of utmost care and loyalty to the seller, and may not disclose to a buyer information about what price or terms the seller will accept other than the price or terms listed. A seller's agent does owe a duty of fair dealing to a buyer, and a duty under Louisiana law to disclose the existence of any known material defects in the property.

Received at _____ .m. on
_____, 19__

_____
SELLER

_____
SELLER

LREC Agency Disclosure Form 1-1

APPENDIX 2

SELLER/LESSOR AGENCY DISCLOSURE

Information for a Prospective Real Estate Buyer or Lessee

When working with a real estate agent in buying or leasing real estate, Louisiana law requires that you be informed of whom the agent is representing in the transaction.

As a prospective buyer or lessee, you should know that:

Both the agent who lists property for sale or lease (the listing agent) and the agent who deals with a buyer or lessee (the subagent or selling agent) are usually paid by the owner and are the owner's agents;

Their loyalties are owed to the owner, and they must inform the owner of all important information they know which might affect the owner's decision concerning the sale or lease of the property;

While neither licensee is your agent, they can provide you with information about available properties and sources of financing and aid you in analyzing and comparing the physical and economic features of different properties, as well as showing you the properties and assisting you in making an offer to purchase or lease.

Agents are obligated by law to treat you honestly and fairly. They must:

present all written offers to the owner promptly;

disclose material facts about the property known to the agent;

offer the property without regard to race, color, religion, sex, handicap, familial status or national origin.

If you choose to have a real estate agent represent you, you should enter into a written contract that:

clearly establishes the obligations of both parties; and

sets out how your agent will be paid and by whom.

If you have any questions regarding the roles and responsibilities of real estate agents, please ask.

I certify that I have provided

_____

the Prospective Buyer or Lessee with a copy of this information.

_____
Brokerage Company Name

_____
Broker or Agent

_____
Date

I have received, read and understand this information.

_____
Prospective Buyer/Lessee or its representative

_____
Prospective Buyer/Lessee or its representative

This form has been promulgated by the Louisiana Real Estate Commission for required use by Louisiana real estate licensees (09-91). LREC Agency Disclosure Form 1-2.

APPENDIX 3

BUYER/LESSEE AGENCY DISCLOSURE

Information for a Prospective Real Estate Seller or Lessor

When working with a real estate agent in selling or leasing real estate, Louisiana law requires that you be informed of whom the agent is representing in the transaction.

As a prospective seller or lessor, you should know that:

The agent represents the buyer or lessee.

The loyalties of an agent representing a buyer or lessee are owed to the buyer or lessee, and he must inform the buyer or lessee of all important information he knows which might affect the buyer's or lessee's decision concerning the purchase or lease of the property.

Agents are obligated by law to treat you honestly and fairly. They must:

Present all written offers to the owner promptly;

Disclose to the buyer or lessee material facts about the property known to the agent;

Present or show property without regard to race, color, religion, sex, handicap, familial status or national origin.

If you currently do not have a real estate agent representing you, and want to have one, you should enter into a written contract that:

Clearly establishes the obligations of both parties; and

Sets out how your agent will be paid and by whom.

If you have any questions regarding the roles and responsibilities of real estate agents, please ask.

I certify that I have provided

_____

the Prospective Seller or Lessor or its representative with a copy of this information.

Brokerage Company Name

Broker or Agent

Date

I have received, read and understand this information.

Prospective Seller/Lessor or its representative

Prospective Seller/Lessor or its representative

This form has been promulgated by the Louisiana Real Estate Commission for required use by Louisiana real estate licensees (09-91). LREC Agency Disclosure Form 1-3.

Jane H. Moody
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741, Louisiana Handbook for School Administrators - Vocational Education Standards

The Board of Elementary and Secondary Education, at its meeting of December 19, 1991, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted revisions to the Minimum Standards for State Approval in Reimbursed Programs of Education in Bulletin 741.

This amendment was previously adopted as an emergency rule, effective August 22, 1991 and was published in its entirety on pages 853 through 863 in the September, 1991 *Louisiana Register*. It is being re-adopted as an emergency rule in order to continue the present policy until it becomes effective as a rule on January 20, 1992. Effective date of this emergency rule is December 19, 1991.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1903, Regulations for the Implementation of R.S. 17:7(11)

The Board of Elementary and Secondary Education, at its meeting of December 19, 1991, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and adopted Bulletin 1903, Regulations for the Implementation of R.S. 17:7(11), the Louisiana Law for the Education of Dyslexic Students.

The Department of Education will conduct state-wide awareness training on Bulletin 1903 in February, with funds provided through the 8(g) grant. Implementation of the regulations will occur in 1992-93. Therefore, emergency adoption is necessary in order for training to begin in February. Effective date of emergency rule is January 20, 1992.

The Five-step Process for Evaluation
and Program Eligibility

60 Operational-day Time Line

2.1

Step One. Data Gathering, Screening and Review

I. Request for Assistance by the School Building Level Committee

A request may be made to the school building level committee (SBLC) for review of a student's educational progress if school personnel (principal, guidance counselor, teacher, school nurse), a parent/guardian, community agency personnel, or a student has reason to believe that the student is not making expected progress because of a suspected language processing disorder. The SBLC membership may be modified in order that a group of knowledgeable persons may address an individual student's needs.

II. Formation of a Group of Knowledgeable Persons

A. Each campus must establish a group of knowledgeable persons, as per requirements of section 504 of the Rehabilitation Act of 1973, to conduct the following assessment and referral activities. The group shall be referred to as the committee.

B. The committee of knowledgeable persons must be composed of at least three members:

1. the child's teacher; and,

2. two other professional persons who are knowledgeable about the child and/or the suspected condition in the individual school setting.

a. school psychologist
b. assessment teacher
c. occupational therapist
d. reading specialist
e. guidance counselor
f. language/speech therapist
g. curriculum specialist in language arts
h. master degreed teachers in reading, language arts, special education, elementary education

3. The parent or guardian, and student shall be included when possible.

4. The committee chairman may request the assistance of pupil appraisal team members when deemed necessary.

III. Data Gathering and Review

A. Upon request, the first action by the committee shall be to gather data about the student and to establish a profile of the total child from the standpoint of school and home.

B. Data gathered shall include but not be limited to the following:

1. health information:
a. vision and hearing screening
b. medical history
2. academic, cognitive, and behavioral information:
a. Cumulative record review

b. Academic progress reports
c. Teacher reports of aptitude, behavior, and concerns
d. LEAP and/or any other standardized test scores
e. Results of basal reading series assessment
f. Informal testing such as curriculum-based measures
g. Types of interventions used in the regular program
h. Samples of a student's work
i. Achievement motivation information
j. Language processing information
3. speech and language information, if indicated
4. additional information from the parents and other sources.

C. The committee shall review and recommend actions which are needed to ensure improved academic performance.

IV. Actions of the Committee

The actions of the committee in order of occurrence are:

Step Two	Strategies within the Regular/Compensatory Education Program,
Step Three	Assessment of Students At-Risk for Dyslexia and Related Disorders,
Step Four	Multi-sensory Regular Education Programming,
or	
Step Five	Individual Evaluation to Determine Eligibility for Special Educational Services.

Step Two. Specialized Instructional Interventions and Strategies within the Regular/Compensatory Education Program

I. Committee Documentation

The committee shall document the use of specialized instructional intervention and strategies previously used with the student.

II. Instructional Interventions and Strategies

A. Additional specialized instructional interventions and strategies may be recommended by the committee for the student.

B. If specialized instructional interventions and strategies have not been tried and documented, the committee shall recommend specialized instructional interventions and strategies to be implemented in the regular/compensatory education setting.

C. Intervention results shall be recorded and reported to the committee.

1. If the specialized instructional interventions and strategies were successful these efforts will be continued, as needed, and documentation shall remain in the student's cumulative records. The evaluation process for dyslexia may be terminated at this point if the committee, including the parent, is in agreement.

2. If a student has not made the expected progress after implementation the committee recommendations for interventions and strategies, the student shall be assessed for dyslexia or related disorders (Step Three).

3. If a student is suspected of having a handicapping condition under IDEA, the student shall be referred to Individual Evaluation to Determine Eligibility for Special Educational Services (Step Five).

Step Three. Assessing Students At-Risk for Dyslexia and Related Disorders

I. Time Lines for Assessment and Program Eligibility

The total evaluation and program eligibility must be completed within a 60-day operational day time frame, including data gathering, screening and review (Step One), specialized instructional intervention (Step Two), and comprehensive assessment, as warranted (Step Three).

II. The Assessment Plan

An assessment plan shall be developed by the chairman of the committee. The chairman shall assign assessment activities to personnel who are qualified to conduct these activities. Documentation shall be kept on the assessment plan and subsequent activities.

At this time, the parent should be contacted and informed about the assessment plan. Permission for testing is not required under Section 504, but all rights of the parents under Section 504 must be explained.

The assessment must include information from a variety of sources including physical, aptitude and achievement measures.

III. Assessment shall be conducted:

A. following committee recommendation and parental notification; or

B. upon the receipt of a request by a parent or guardian, provided that Steps One and Two have been completed.

IV. Assessment shall be conducted in accordance with the following guidelines [34 CFR 104.35 (b) 1-3]:

A. The assessment procedures shall be conducted by appropriately trained Local Education Agency (LEA) personnel as delineated by the assessment plan.

B. The assessment shall include multi-source data and shall be conducted using valid and reliable instruments. Tests and other evaluation materials must have been validated for the specific purpose for which they are used and must be administered in conformance with the instructions provided by their producer.

C. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single intelligence quotient.

D. Tests are selected and administered to ensure that the results accurately reflect the student's aptitude or achievement level rather than reflecting the student's impaired skills (except where those skills are the factors the test purports to measure). Careful attention must be given to test selection and administration for students with impaired sensory, manual, or speaking skills.

E. A written report of findings, signed by the assessment team, shall be given to the parents and a copy maintained in the student's cumulative folder.

F. A referral to special educational services is required if during the assessment process other handicapping conditions under IDEA are suspected.

V. Required Components of the Assessment Procedure

The assessment shall include the following:

A. a review of data gathered in Step One regarding hearing and vision screening results

B. a review/assessment of cognitive ability

C. assessment of communication skills

1. receptive language

a. listening

b. reading (non-word reading, word attack skills, and timed test of reading)

2. expressive language

a. oral expression

b. written expression

D. assessment of mathematics skills

1. computation

2. word problems

E. behavioral characteristics

1. attention span

2. self-esteem

3. metacognition

4. social skills

F. family interview

VI. Interpreting the Data

A. The following questions shall be addressed by the committee of knowledgeable persons and any support personnel that have assisted in the assessment.

1. Is there a discrepancy between achievement in the written language areas (reading, spelling, handwriting) and other content areas?

2. If there is difficulty in content areas, is it because of difficulty in reading, spelling, and handwriting tasks?

3. Does the student seem capable of learning in areas not dependent on reading, spelling, or handwriting skills?

4. Does the lack of academic progress seem to be inconsistent with student's observed and demonstrated abilities in other areas, such as mechanical aptitude, creativity, participating in class activities not dependent on reading or spelling proficiency?

5. Does the student have adequate intelligence?

6. Is there difficulty in oral expression?

7. Is the child losing ground on achievement tests?

B. A referral to Special Educational Services is required during the assessment process if other handicapping conditions under IDEA are suspected.

VII. Eligibility Criteria for Dyslexia Programming

A student shall meet criteria A-E, inclusive, as listed below in order to be classified as dyslexic and eligible for dyslexia programming. If a student exhibits characteristics associated with dyslexia and related disorder, the student shall be eligible for Step Four - Multi-sensory Regular Education Programming.

A. A student has adequate intelligence demonstrated through performance in the classroom appropriate for the student's age, or on standardized measures of cognitive ability.

B. A student at-risk for dyslexia must exhibit some of the following characteristics associated with dyslexia, as determined through the assessment procedures. Consideration must be given to age level of students in weighing the following characteristics. Several primary characteristics are indicated by an asterisk (*).

* 1. problems in learning the names of the letters of the alphabet

* 2. difficulty in learning to write the alphabet correctly in sequence

3. difficulty in learning and remembering printed words

4. reversal of letters or sequences of letters

* 5. difficulty in learning to read

* 6. difficulty in reading comprehension

* 7. cramped or illegible handwriting

* 8. repeated erratic spelling errors

9. losing ground on achievement or intelligence tests

* 10. delay in spoken language

11. difficulty in finding the "right" word when speaking

12. late in establishing preferred hand for writing

13. late in learning right and left and other directionality components such as up-down, front-behind, over-under, east-west, and others

* 14. problems in learning the concept of time and temporal sequencing, i.e., yesterday, tomorrow, days of the week and months of the year

15. family history of similar problems

16. late in learning to talk

17. delay in motor milestones

18. slow reading speed

19. error proneness in reading

20. difficulty in foreign language for older students

21. word substitution in oral reading.

C. The student demonstrates a discrepancy between achievement in the language areas (e.g., reading, spelling, handwriting) and other cognitive ability.

D. A student's educational exposure has been in a formal instructional setting for at least one academic year, the student has attended first grade, and the student must be seven years of age.

E. A student is identified as eligible for a dyslexia program if, as a result of this disability, a major life activity is substantially limited.

Step Four. Multi-sensory Regular Education Programming

I. Program Determination

A student should be maintained within the regular education program with recommended modifications.

A. Options for programming may include the following:

1. regular class placement with curriculum modifications and specialized strategies;

2. in- or out-of-class placement in a multi-sensory program;

3. specialized individual or small group tutoring; and

4. a combination of these options or any additional arrangements that may be developed by the team and approved by the LEA.

B. If a parent or guardian or school system does not agree with the provision of services, either party may pursue the resolution of this issue through the appropriate due process procedure.

II. Program Description

The multi-sensory regular education program(s) shall be one in which the major instructional strategies are language-based, systematic, sequential, cumulative, individualized, meaning-based, and multi-sensory in approach.

A. *Individualized* — the personalization of instruction to student ability levels, interests, and learning styles.

B. *Multi-sensory* — combined use of visual, auditory, kinesthetic, and tactile senses to reinforce learning.

C. *Systematic, sequential, cumulative* — an orderly fashion of learning to read, write, and spell, building on what the student already knows.

D. *Language-based* — the relating of all aspects of language into meaningful settings.

III. Teacher Training

Teachers of particular multi-sensory regular education programming shall be appropriately trained according to the criteria of an adopted program, and such assurance shall be provided by the LEA.

IV. Evaluation Data and Review of Student Progress

Evaluation data shall be maintained on students enrolled in multi-sensory regular education programming.

A periodic review shall be made to determine the appropriateness of the program for the individual student. At a minimum, an annual review is required. However, a review may be conducted at any time the student does not appear to be making adequate progress.

Reevaluation shall be conducted at a minimum every three years.

Step Five. Referral for Individual Evaluation to Determine Eligibility for Special Education

An individual evaluation will be conducted in accordance with Bulletin 1508, Pupil Appraisal Handbook, to determine whether or not a student is exceptional and the nature and extent of needed special education and related services.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to Classes of Certification
and Certificate Types

The State Board of Elementary and Secondary Education, at its meeting of August 22, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and discontinued the certificate types adopted as a result of the Children First Legislation, (Provisional, Provisional-In-Remediation, and Renewable Professional), and reinstated the certificate types issued prior to Children First Legislation, (Types C, B, and A) as stated below.

This action supersedes a rule adopted in October, 1990 and printed in full in the June, 1990 issue of the *Louisiana Register.* as an emergency rule.

This policy was previously adopted as an emergency rule effective August 22, 1991 and is being re-adopted as an emergency rule in order to continue the present policy until it becomes effective as a rule on January 20, 1992. Effective date of this emergency rule is December 19, 1991.

Certificates
Standard Certificates

Notations will be placed on each certificate of Type C, B, or A to show specific authorization of the level(s) and the field(s) in which employment is authorized. A certificate authorizes employment only at the level(s) and in the field(s) shown by endorsement thereon. Only those authorizations listed in this bulletin may be placed on a valid Louisiana certificate.

Type C

A Type C certificate is based upon a baccalaureate degree including completion of a teacher education program approved by the State Board of Elementary and Secondary Education, with credits distributed as hereinafter provided, including general, professional, and specialized academic education. This certificate authorizes employment for a period of not more than three years for services endorsed thereon.

Type B

A Type B certificate is based upon a baccalaureate or higher degree including completion of a teacher education program, approved by the State Board of Elementary and Secondary Education, with credits distributed as hereinafter provided, including general. professional, and specialized academic education, and requires that the applicant show three years of successful teaching experience in his properly certified field. The experience must be validated by the employing authority. This certificate is valid for life for continuous service for services endorsed thereon.

Type A

A Type A certificate is based upon a baccalaureate degree including completion of a teacher education program approved by the State Board of Elementary and Secondary Education, with credits distributed as hereinafter provided, including general, professional, and specialized academic education, a master's or higher degree from an approved institution, and five years of successful teaching experience in the properly certified field. The experience must be validated by the employing authority. This certificate is valid for life for continuous service for services endorsed thereon.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendments to the Louisiana Annual Special
Education Program Plan for FY 91-93

The State Board of Elementary and Secondary Education, at its meeting of August 22, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and approved the following amendments to page 21 of the Louisiana Annual Special Education Program Plan for FY 91-93.

This amendment was previously adopted as an emergency rule effective August 22, 1991 and is being re-adopted as an emergency rule in order to continue the present policy until it becomes effective as a rule on January 20, 1992. Effective date of this emergency rule is December 19, 1991.

Louisiana Annual Special Education
Program Plan for FY 91-93

Formal parental approval for the release of the educational record must be given by a parent who understands and agrees, in writing, to the list of persons or agencies to whom the records will be released.

Independent Individual Evaluation

For the purposes of this Part: *Independent education evaluation* means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.

Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

The parents of an exceptional child have the right to obtain an independent individual evaluation of the child, in accordance with the following:

Independent individual evaluation means an evaluation conducted according to the criteria in Bulletin 1508 and Bulletin 1706. Each public agency shall provide to parents upon request information about where an individual evaluation may be obtained. An independent evaluation is not necessarily a private evaluation.

A parent has the right to an independent individual evaluation that meets the requirements of Bulletin 1508. This individual evaluation shall be at public expense (without charge) in the following instances.

1. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent, the school system initiates a hearing within 10 operational days of the written notice, and the hearing officer decides that the parent was correct.

2. If a hearing officer requests an independent evaluation as part of a hearing.

3. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent but does not request a hearing.

Failure of a parent to provide a school district with written notice of a disagreement with the school district evaluation does not relieve the school district of its responsibility to pay for an independent educational evaluation that meets the other requirements as stated above.

Parents have the right to obtain an individual evaluation at their own expense. It is advisable for parents to determine if Bulletin 1508 criteria will be met:

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Temporary Employment Permits

The State Board of Elementary and Secondary Education, at its meeting of December 19, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and adopted the following revised policy on Temporary Employment Permits, effective through the 1992-93 school year.

This policy was previously adopted as an emergency rule, effective August 22, 1991 and is being re-adopted as an emergency rule in order to continue the present policy until it becomes effective as a rule on January 20, 1992. Effective date of this emergency rule is December 19, 1991.

Temporary Employment Permits

A temporary employment permit, valid for one school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirements must be met.

When no area examination is required, a temporary employment permit will be granted to candidates who meet qualifying scores in two out of three modules of the Core Battery and whose aggregate score is equal to or above the total score on all three modules of the Core Battery required for certification. All other standard certification requirements must be met.

To employ an individual on a temporary employment permit, a local superintendent would be required to verify that no regularly certified teacher is available for employment. Names of the individuals employed on a temporary employment permit should be listed on the addendum to the annual school report with verification that no regularly certified teacher is available.

An individual can be reissued a permit under the board policy only if evidence is presented to the State Department of Education that the NTE has been retaken within one year from the date the permit was last issued, and the reissuance shall not occur but once.

Temporary employment permits will be issued at the request of individuals who meet all requirements for regular certification with the exception of the NTE scores. All application materials required for issuance of a regular certificate must be submitted to the Bureau of Higher Education and Teacher Certification with the application for issuance of a temporary employment permit.

This policy will remain in effect until July 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendment to LAC 28:1523

The State Board of Elementary and Secondary Education, at its meeting of December 19, 1991, exercised those powers conferred by the emergency provisions of the Administrative Procedure Act R.S. 49:953(B) and adopted the following amendments to the Administrative Code, Title 28, Chapter 15, Section 1523 (E): (15), (16), and (20).

These amendments were previously adopted as an emergency rule, effective August 22, 1991 and are being re-adopted as an emergency rule in order to continue the present policy until it becomes effective as a rule on January 20, 1992. Effective date of this emergency rule is December 19, 1991.

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical Education
§1523. Students

* * *

E. Fees for Louisiana Residents

* * *

15. Tuition for extension classes for which the instructor's salary is paid by the institute shall not exceed $2 per hour of classroom instruction with a minimum of $10.

16. Tuition for extension classes may be above $2 per instructional hour when approved by the State Board of Elementary and Secondary Education.

* * *

20. Technical institute directors may allow a maximum of 10 minutes per instructional hour for instructional preparation/administrative purposes. Example: 30 hour course - the institute director may grant five hours (30 hours × 10 minutes = 300 minutes/5 hours) for instructional/administrative purposes.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of the Secretary

The Department of Health and Hospitals, Office of the Secretary, in agreement with the Louisiana Health Care Authority, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), effective December 30, 1991, to adopt the following Annual Service Agreement and the definition of adequate services required by Act 390 of 1991 between DHH and LHCA.

ANNUAL SERVICE AGREEMENT

This agreement is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) and enumerates specific agreements reached with regard to administrative operations of these two entities during state fiscal year 1991-1992. This agreement is a cooperative endeavor agreement entered into by DHH and LHCA in accordance with provisions of Article VII, Section 14C of the Louisiana Constitution.

I. Background

In 1989, the Louisiana Legislature enacted Act No. 444 of the 1989 Regular Session of the Legislature which created the Louisiana Health Care Authority to develop a comprehensive plan to address the need for changes in the organization and governance of the state's charity hospital system in order to address the system's deficiencies and maintain and enhance the quality of health care to the indigent and uninsured citizens of Louisiana.

In late 1989 and early 1990, the governing council of the Louisiana Health Care Authority developed the comprehensive plan and presented it to the legislature on March 1, 1990, in accordance with the mandate of Act No. 444 of the 1989 Regular Session of the Legislature.

As a result of the comprehensive plan, the legislature enacted Act No. 855 of the 1990 Regular Session of the Legislature which provided for the eventual transfer of the charity hospital system from the Department of Health and Hospitals to the Louisiana Health Care Authority, subject to additional strategic planning by the Louisiana Health Care Authority governing board and local boards.

In late 1990 and early 1991, the governing board of the Louisiana Health Care Authority, in consultation with the local boards of each of the state's charity hospitals, developed a strategic five-year operational plan in accordance with the mandate of Act No. 855 of the 1990 Regular Session of the Legislature.

On March 15, 1991, the Louisiana Health Care Authority presented a strategic five-year operational plan to the legislature, which addressed the revitalization of the charity hospital system's deteriorated infrastructure through the use of revenue bond financing, improved management through adoption of procedures common in the public hospital sector, stabilized medical residency and other health education programs, improved retention of professional staff, created centers of medical excellence, improved quality of care, avoided a state funding crisis, and created a stimulus for economic development by transferring the state's charity hospital system from the Department of Health and Hospitals to the Louisiana Health Care Authority.

The legislature enacted Act 390 of the 1991 Regular Session of the Legislature which approved and adopted the strategic five-year operational plan proposed by the Louisiana Health Care Authority and which further provided for the transfer of the charity hospital system from the Department of Health and Hospitals to the Louisiana Health Care Authority, a political subdivision of the state by executive order of the governor, on or before January 1, 1992.

The following indicates the organizational impact of Act 390 of 1991.

A. Previous Departmental Structure. DHH, prior to the enactment of Act 390, included the following offices:

1. Office of Charity Hospital of Louisiana at New Orleans (OCHNO)
2. Office of Hospitals (OH)
3. Office of Human Services (OHS)
4. Office of Public Health (OPH)
5. Office of Management and Finance (OM&F)
6. Office of the Secretary (OS)

B. Offices Transferred. In accordance with Act 390, the following offices were retained in DHH:

1. Office of Public Health (OPH)
2. Office of Human Services (OHS)
3. Office of the Secretary (OS)
4. Office of Management and Finance (OM&F)

The Emergency Medical Services Program in the Office of Hospitals was transferred to the Office of Public Health in DHH. Two long-term care facilities in the Office of Hospitals, New Orleans Home Rehabilitation Center and Villa Feliciana Chronic Disease Hospital and Rehabilitation Center, were transferred to the Office of Human Services.

The following offices were transferred to the LHCA:

1. Office of Hospitals (OH)
2. Office of Charity Hospital of Louisiana at New Orleans (OCHNO)

II. General Provisions - Annual Service Agreement

The Louisiana Health Care Authority acknowledges that the Department of Health and Hospitals through its offices is legally responsible for the development and provision of health and medical services for the prevention of disease for all the citizens of Louisiana, as well as the provision of health and medical services for the uninsured and medically indigent citizens of Louisiana. By entering into this agreement, the LHCA is agreeing to provide inpatient and outpatient hospital services to the uninsured and medically indigent citizens on behalf of the Department of Health and Hospitals. The LHCA further acknowledges that the provision of services to the underinsured and medically indigent is its highest priority.

For purposes of this agreement the following definitions will apply:

A. *Adequate Services* means the provision of any services provided at each of the Medical Centers transferred

to the LHCA in accordance with Act 390 of the 1991 Regular Legislative Session, on the date of transfer, as well as any expanded services budgeted in accordance with Act 12 of 1991 (General Appropriations Act) to any bona fide resident and taxpayer of the State of Louisiana determined to be medically indigent. The medically indigent shall be admitted for any form of treatment. Those persons who are determined not to be medically indigent shall be admitted on a space available basis and shall be reasonably charged for treatment or service received. In no event shall emergency treatment be denied to anyone.

B. *Medically Indigent* means any bona fide resident of the State of Louisiana whose family unit size and gross income is equal or less than 200 percent of the Federal Poverty Income Guidelines for that size family unit rounded up to the nearest thousand dollars.

C. *Overcollections* means any monies from Medicare, Medicaid or other third party payor collected by or on behalf of the Medical Centers operated by the LHCA in excess of the amounts budgeted in Act 12 of 1991 at the beginning of the fiscal year for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

D. *Licensed Beds* means the number of beds in each medical center licensed by the Bureau of Health Services Financing and certified for participation in the Medicaid and Medicare programs.

The LHCA shall secure written approval from the secretary of DHH, at least 60 days in advance of any plans to reduce, eliminate or shift any programs and services or the establishment of centers of excellence which require shifting of services provided on the date of this agreement. DHH will not arbitrarily withhold approval as long as adequate services continue to be provided and the change does not adversely impact any of the DHH's budget units.

The LHCA agrees not to use the proceeds from its facilities to construct, operate or fund a health care facility or substantial portion thereof which primarily treats insured patients other than those covered by Medicare and Medicaid.

The LHCA further agrees that the secretary of the Department of Health and Hospitals shall be responsible for monitoring the service agreement and promptly reporting any failure to comply with the agreement to the governor and to the Joint Committee on Health and Welfare and the Joint Legislative Committee on Budget. Prior to such notification the secretary of DHH shall provide written notice 30 days in advance to the chief executive officer and LHCA Board of failure to comply with the agreement.

DHH agrees to implement and manage the Community Based and Rural Health Care Program on behalf of the Louisiana Health Care Authority (Act 394).

The LHCA agrees to make every attempt to assure prompt access to emergency services and to attempt to reduce waiting times for outpatient services. Prenatal and HIV clinics shall be given top priority in meeting this mandate.

III. Financing Arrangements - Annual Service Agreement

A. Administrative costs of the LHCA as well as costs associated with the provision of professional services currently budgeted in DHH/OS will continue to be paid by DHH during FY 91-92. These costs specifically include salaries and related benefits for the incumbents in the positions identified for transfer up to the amount budgeted in accordance with Act 12 of 1991. Salaries and related benefits for any additional LCHA employees, space rental, moving costs, equipment and other related LHCA start-up costs not to exceed $900,000 in FY 91-92 will be paid by DHH. Effective FY 92-93, administrative costs for the LHCA shall be included in the LHCA budget request.

B. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas or amend the Medicaid state plan as it relates to inpatient and outpatient hospital services without prior approval of the LHCA chief executive officer.

C. The LHCA agrees not to process any budget adjustment request (BA-7) to increase the expenditure authority of the LHCA or any of its facilities without prior written approval of the secretary of DHH.

D. DHH agrees not to process any BA-7's where the means of financing would reflect use of overcollections by the LHCA or any of its facilities without prior written approval of the LHCA chief executive officer except for the BA-7 to budget for those items contemplated during the FY 91-92 budget process, LHCA administrative costs, as well as any funds flowing to the LHCA or its facilities as a result of implementation of Act 617 (Medicaid Provider Contributions).

E. DHH and LHCA agree that no later than March 1, 1992 and annually thereafter, a meeting will be held to determine an amount to be transferred from the Louisiana Health Care Authority to the Department of Health and Hospitals which shall be the amount of projected over-collections to be received by the authority which are necessary to finance the Medicaid program. For FY 91-92, this amount shall be at least $128 million plus any subsequent adjustments approved by the chief executive officer of LHCA and secretary of DHH and by the Joint Legislative Committee on the Budget and/or the commissioner of administration. For FY 91-92, the LHCA agrees that any over-collections shall first be used to offset the requirements of the Medicaid Program.

F. LHCA shall not shift monies specifically earmarked in the budget process to alternative uses without prior written approval from the secretary of DHH.

This specifically includes:

EKL	- Eden Park, North Baton Rouge, South Baton Rouge Clinics
	- AIDS Outpatient Clinic
UMC	- AIDS Outpatient Clinic
CHNO	- AIDS Outpatient Clinic
	- WIC
	- Health Clinic Contracts
	- Nurse Stipend

G. In the event the LHCA anticipates a medical center failing to collect Medicare, Medicaid, and other third party collections and anticipates using the pooling authority granted in Act 390, the LHCA chief executive officer shall immediately notify, in writing, the secretary of DHH if such pooling would impact the ability of the LHCA to meet the transfer requirements spelled out in E. above. In this regard, the LHCA agrees to provide monthly reports detailing collections by source of payment for each of its medical centers.

H. With regard to collections from those persons receiving inpatient services identified as self pay, the LHCA agrees to determine the amount of such collections based upon DHH Policy No. 4600-77 (DHH Liability Limitation Policy).

I. The LHCA agrees to proceed with implementation of

the provisions of R.S. 46:6 as amended by Act 893 of 1991 (Minimum Charges).

J. For any costs not otherwise specified herein, it is agreed by DHH and LHCA that the cost of operating any unit in either agency will be paid by the agency budgeted that cost. It is also agreed that each agency will be billed their proportionate share of the costs of each unit based on the approved cost allocation plan for that unit.

IV. Revisions and Resolution of Disputes

LHCA and DHH agree that it may become necessary to change parts of this Annual Service Agreement to reflect changing needs of each agency, new laws, regulations, etc. Accordingly, it is agreed that either agency may request discussion of proposed amendments as needed. It is further agreed that both agencies will work to assure that disputes are resolved at the lowest possible level.

J. Christopher Pilley
Secretary

Charles F. Castille
Acting Chief Executive Officer
Louisiana Health Care Authority

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing (BHSF), has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program. The emergency rulemaking provisions were previously exercised effective April 1, 1990 and published in the *Louisiana Register* Vol. 16, No. 4, page 286 on April 20, 1990 relative to this provision, and the emergency rule was readopted effective July 30, 1990 and published in the *Louisiana Register* Vol. 16, No. 8, page 673 on August 20, 1990. The rule was published as a notice of intent on September 20, 1990 (Volume 16, No. 9, page 795). Subsequently, the emergency rule was readopted and published in the *Louisiana Register* Vol. 16, No. 12, page 1042 on December 20, 1990, and Vol. 17, No. 4, page 343 on April 20, 1991 and Vol. 17, No. 10 on October 20, 1991. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

Under current policies only physician services and prenatal clinic services are reimbursed to federally-qualified health centers (FQHC). Effective April 1, 1990, BHSF will begin implementation of reimbursement based on allowable costs for federally-qualified health center services. This includes "core" services as well as any other services provided by a federally-qualified health center which are otherwise covered as reimbursable Medicaid services in Louisiana. Federally-qualified health centers are defined as those receiving a grant under Section 329, 330, or 340 of the Public Health Service Act or which, based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined by the secretary to meet the requirements for receiving such a grant and have been recognized by the Health Care Financing Administration (HCFA) as eligible for Medicaid reimbursement.

Following implementation of these regulations, health services mandated to be covered when rendered by the federally-qualified health centers shall include the following "core services": physician and physician assistant services, medically necessary services including pneumococcal and influenza vaccines and supplies incident to physician services; nurse practitioners; and clinical psychologist and clinical social worker services. Any other ambulatory services covered by Title XIX in Louisiana may also be reimbursed when rendered by a qualified FQHC provider in accordance with state policy and procedures.

Implementation of this provision is mandated by the Omnibus Reconciliation Act of 1989, Section 6404 (P.L. 101-239). This rule is necessary to ensure compliance with mandated federal regulations and to avoid sanctions from HCFA.

EMERGENCY RULE

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing shall begin implementation of reimbursement for "core" services and other ambulatory services covered under Medicaid and delivered by federally-qualified health centers as required by Section 6404 of the Omnibus Reconciliation Act of 1989 in accordance with state policy and procedures. Reimbursement for these services shall be based on allowable costs in accordance with Medicare principles of cost reimbursement found at 42 CFR Part 413. Annual cost reporting and full cost settlement shall be required to participate in Title XIX as a federally-qualified health center.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Title XIX Medicaid Program. The rule was previously adopted by emergency rulemaking and published in the *Louisiana Register* of October 20, 1990, Vol. 16, No. 10; February 20, 1991, Vol. 17, No. 2; June 20, 1991, Vol. 17, No. 6; and October 10, 1991, Vol. 17, No. 10. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

The reimbursement methodology for inpatient hospital services incorporates a provision for payment adjustment for hospitals serving a disproportionate share of low-income patients. This disproportionate share payment adjustment was implemented on July 1, 1988, in accordance with Section 4112 of the Omnibus Reconciliation Act of 1987 (Public Law 100-203). Rulemaking to adopt the provision was published in the *Louisiana Register*, Volume 14, No. 8, dated August 20, 1988.

The bureau has made the finding that Title XIX inpatient hospital reimbursement rates are reasonable and adequate to meet the costs incurred by efficiently and economically operated facilities to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards except for those hospitals which provide services to a disproportionate share of medically indigent inpatients. One of the qualifying criteria for a disproportionate share payment adjustment is that the hospital must have a utilization rate in excess of the defined Medicaid utilization rate or the low-income utilization rate. As a result of discussion with the Health Care Financing Administration, the emergency rule is being modified to delete the additional criterion of providing a minimum percentage of free care. HCFA has advised that this would be contrary to federal laws and regulations. In accordance with the intent of Sections 1902 (a)(13) and 1923 of the Social Security Act to provide additional reimbursement to hospitals serving a disproportionate share of indigent patients, the bureau will increase the payment under the low-income utilization methodology to three times the amount over the qualifying percentage (25 percent). In addition, modification to add a minimum payment of $1 in addition to the payment adjustment proportional to the amount in excess of the qualifying percentage for Medicaid utilization or low-income utilization has been necessitated by Section 4703 of the Omnibus Reconciliation Act of 1990.

Emergency rulemaking is necessary in order to enhance federal funding to hospitals providing indigent care as a result of this policy change in the disproportionate share payment adjustment in the inpatient hospital services program.

Emergency Rule

I. In order to qualify for a payment adjustment based on low-income utilization, the hospital must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Services Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and procedures for applying for same.

II. The low-income utilization rate is defined as the sum of

(a) the fraction, (expressed as a percentage), the numerator of which is the sum (for the period) of the total Medicaid (Title XIX) patient revenues plus the amount of the cash subsidies for patient services received directly from state and local governments, and the denominator of which is the total amount of hospital revenues for patient services (including the amount of such cash subsidies) in the cost reporting period; and

(b) the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in (a) above in the period which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. The above numerator shall not include contractual allowances and discounts (other than for indigent patients not eligible for Medicaid), that is, reductions in charges given to other third party payers, such as HMO's, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations.

Hospitals shall be deemed disproportionate share providers if their low-income utilization rates are in excess of 25 percent.

III. Payment Adjustment

When a disproportionate share hospital qualifies for a payment adjustment based on low-income utilization, the payment adjustment factor is as follows: Effective for services November, 1990 and after, a minimum of $1 plus a proportional adjustment equal to the percentage or portion thereof, of the low-income utilization rate as defined in II. in excess of 25 percent times a factor of three.

Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medicaid Program.

Currently, Medicaid of Louisiana requires replacement of prescriptions when the patient presents the prescription to a pharmacy more than 10 days from the date issued by a physician. Program review indicates that the 10-day prohibition results in increased costs for additional physician services and delays delivery of needed medications for chronic illnesses such as high blood pressure and diabetes. In addition the Board of Pharmacy has published regulations to assure the lawful and appropriate filling of prescriptions. Therefore, to assure provision of mandatory services to patients in nursing facilities, pregnant women, and children as mandated under OBRA '87, and OBRA '89 limitation on the filling of prescriptions is being modified.

This emergency rule is necessary to assure continued compliance with mandatory federal statutes which require provision of medically necessary services as well as reducing unnecessary medical costs resulting from replacement of prescriptions.

EMERGENCY RULE

Prescriptions shall be filled within six months of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana. Schedule II narcotic analgesics shall be filled within five days of the date prescribed by a physician or other service practitioner covered under Medicaid of Louisiana. Transfer of a prescription from one pharmacy to another is allowed if less than six months

have passed, since the date prescribed, and in accordance with the Louisiana Board of Pharmacy requirements.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program effective March 1, 1991.

Groups of individuals who are eligible for Medicaid reimbursement for services are defined in federal regulations. Coverage for certain groups are mandated, and other groups to whom coverage may be extended are described. Recipients of Aid to Families with Dependent Children (AFDC) administered by the Department of Social Services (DSS), Office of Family Support (OFS), and recipients of Supplemental Security Income (SSI) administered by the Social Security Administration (SSA) are among the groups required to be covered for Medicaid services.

The Department of Health and Hospitals is the single state agency responsible for administration of the Medicaid Program in the state. Under the terms of an interagency agreement, OFS field staff determines eligibility for Medicaid coverage. The eligibility determination examiners of the Medical Assistance Program (MAP) Unit are stationed on-site in state charity hospitals and some public health units to assist patients in making application for Medicaid benefits.

In order to expedite certification for Medicaid coverage, DHH is implementing coverage of individuals described in 42 CFR 435.210 who would be eligible for but are not receiving cash assistance. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits. At the time of notification of certification, the recipients will be informed of their eligibility for cash assistance so that they may make application for those benefits if they so choose.

Emergency rulemaking is necessary to extend Medicaid coverage to hospital patients in need of expeditious certification in order to receive necessary services. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953(B), were previously exercised effective February 11, 1991 and published in the *Louisiana Register*, on February 20, 1991, Vol. 17, No. 2, June 20, 1991, Vol. 17, No. 6; and October 20, 1991, Vol. 17, No. 10. This rule is effective for the maximum period allowed under R.S. 49:954(B), et seq.

EMERGENCY RULE

Medicaid eligibility is extended to individuals who would be eligible for but are not receiving cash assistance as an Optional Categorically Eligible group. This eligibility group is described as persons who have been determined to meet all the eligibility criteria for cash assistance under AFDC or SSI, but are not receiving these benefits.

Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program. The emergency rulemaking provisions of the Administrative Procedure Act, R.S. 49:953(B) were previously exercised relative to this provision effective October 10, 1991 and published in the *Louisiana Register* Vol. 17, page 949, on October 20, 1991.

The bureau has amended the Medicaid standards for payment for skilled nursing, intermediate care I and intermediate care II levels of care to assure compliance with the Onmibus Budget Reconciliation Act of 1987, which became effective October 1, 1990. Emergency rulemaking is necessary to ensure compliance with mandatory federal law.

EMERGENCY RULE

Nursing homes participating in Medicaid (Title XIX) shall be required to meet the following standards for payment for nursing home services in addition to the standards currently in effect:

1. the ratio of nursing care hours to residents shall be 2:35 on intermediate care level residents;
2. the ratio of nursing care hours to residents shall be 2:60 on skilled level residents;
3. nursing homes with a census of 101 or more shall have a full-time assistant director of nursing;
4. the assistant director of nursing shall be a registered nurse unless a written waiver has been approved by the department;
5. nursing homes shall have at least one Patient Activities Coordinator (PAC) per facility. An additional PAC per resident census in excess of 100 shall be required. All PAC employees shall be full time, or sufficient full-time equivalent employees shall be maintained to comply with these standards. Regardless of the number of PAC employees required, one full-time PAC shall be certified;
6. nursing homes shall employ one additional clerical employee.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medicaid Program.

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) (OBRA '90) was signed by the president on December 5, 1990, enacting numerous changes in the Medicaid program. This rule is promulgated in order to implement the mandatory provisions of that law and to avoid sanctions.

OBRA '90 requires numerous amendments to existing regulations as well as making available new optional and mandated coverage for both eligibility groups and services. Among the more prominent provisions are:

1. mandatory rebate provisions for prescribed drugs and drug use review;
2. higher income levels for recipients eligible for buy-in of Medicare premiums;
3. new mandatory use of outreach locations;
4. modifications of disproportionate share hospital regulations;
5. clarifications concerning federally qualified health centers;
6. descriptions of various alternative services;
7. technical amendments to several income consideration regulations;
8. provisions for new personal care attendant and alcoholism and drug dependency services;
9. optional new spenddown eligibility option;
10. amended calculation factors for home and community based waiver cost effectiveness formulas;
11. modifications to physician identification requirements and qualifications;
12. reporting requirements concerning sanctions; and
13. technical corrections to nursing facility nurse aide requirements, deficiency standards, readmission standards, reports, professional practitioners, resident assessment, nursing waivers, recipient rights and charges, and staffing requirements.

This emergency rule was previously implemented effective January 2, 1991 and published in the *Louisiana Register*, January 20, 1991 (Vol. 17, No. 1), and June 20, 1991 (Vol. 17, No. 6) and October 20, 1991 (Vol. 17, No. 10). This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Mandatory Title XIX provisions of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) are hereby adopted and implemented as required by the provisions of said Act, utilizing the interpretations set forth by the Health Care Financing Administration (HCFA) in its State Medicaid Manual publication and in conformity with technical assistance rendered until final regulations are adopted by HCFA, as appropriate.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medical Assistance Program.

Currently, anesthesia services are provided to Title XIX Medicaid eligible recipients by anesthesiologists and certified registered nurse anesthetists (CRNAs) in accordance with federal and state regulations. These providers are reimbursed on a flat fee for services in accordance with Health Care Procedure Codes (HCPC). For each HCPC a maximum reimbursement is assigned and automated payment is made based on the dollar amount assigned to each HCPC, not to exceed billed charges. When anesthesia services are provided by a CRNA, payment for these services may not duplicate payment to the anesthesiologist. Payment to CRNAs for services provided is limited to the applicable modifier amount of the appropriate procedure code.

Section 6402 of the Omnibus Budget Reconciliation Act of 1989 requires that payments are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population. Based on a review of anesthesiology provider participation in the state's Title XIX program as well as a review of the reimbursement structure for anesthesiology services, the bureau has determined that less than 50 percent of the state's licensed anesthesiologists are actually enrolled in the Medicaid program. In order for the bureau to comply with mandatory federal statute provisions, the reimbursement level for anesthesia services was increased effective September 1, 1990. This emergency rule was previously published in the *Louisiana Register* on September 20, 1990, Volume 16, No. 9; on January 20, 1991, Volume 17, No. 1; on June 20, 1991, Volume 17, No. 6; and October 20, 1991, Volume 17, No. 10.

This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Anesthesiology services shall be reimbursed in accordance with the guidelines set forth herein when provided to eligible Title XIX recipients. With some exceptions, anesthesia services will be reimbursed by the formula in I., which considers Base Units and Time Units and a multiplier Coefficient along with Modifiers which identify the involvement of the anesthesia services provider. The exceptions to the formula to determine reimbursement are certain CPT-4 procedure codes identified in IV., which will continue to be reimbursed on a flat fee basis. In addition, maternity-related anesthesia services will be reimbursed on a flat fee basis in accordance with the provisions set forth in V.

"Personal Medical Direction" as used in this rule is defined in the same manner as "personal medical direction" in the Medicare billing guidelines.

I. Formula Determining Payment for Anesthesia Services

Reimbursement to anesthesiologists and certified registered nurse anesthetists will be calculated using the following formula: base units + time units × coefficient =

payment. A Base Unit is the relative value assigned to a CPT-4 procedure code. A time unit equals the length of the anesthesia service in minutes divided by either 15 or 30. The coefficient will be either $8.49 or $15.

If there are additional minutes remaining when time units are computed, then reimbursement will only be paid for five minute intervals. When one unit = 15 minutes and the coefficient is $15, reimbursement will be paid at the rate of $5 for each additional five minute interval. When one unit = 15 minutes and the coefficient is $8.49, reimbursement will be paid at the rate of $2.83 for each additional five minute interval. When one unit = 30 minutes and the coefficient is $15, reimbursement will be paid at the rate of $2.50 for each additional five minute interval. Remaining minutes less than five will not be reimbursed.

II. Certified Registered Nurse Anesthetists (CRNAs) Payment Schedule

Reimbursement to CRNAs will be paid at two levels differentiated by whether the CRNA is personally medically directed by an anesthesiologist or works independently of an anesthesiologist. The Coefficient will be $8.49 for a medically directed CRNA (designated by modifier AH) and $15 for a non-medically directed CRNA (designated by modifier AI). The payment will be calculated as follows:

Modifier AH Base Units + Time Units (1 = 15 minutes) × $8.49 = Payment

Modifier AI Base Units + Time Units (1 = 15 minutes) × $15 = Payment

No reimbursement will be paid to a surgeon for the personal medical direction of a CRNA. The anesthesia service will be considered non-medically directed and should be billed as such by the CRNA.

III. Concurrent Medical Direction by the Anesthesiologist

When an anesthesiologist and a CRNA are both involved in the performance of a single anesthesia service, the service will be considered as performed by the anesthesiologists. No separate payment will be made to the CRNA.

An anesthesiologist may bill for personal medical direction only when two or more anesthesia services are being concurrently performed. When the anesthesiologist is involved in directing two or more concurrent anesthesia procedures, the coefficient for the anesthesiologist is $15 with a percentage reduction of the Base Units according to the number of CRNAs under his/her personal medical direction. Payment will be computed using the following modifiers and formula:

Modifier AA (Anesthesiologist working alone) Base Units + Time Units (1 = 15 minutes) × $15 = Payment

Modifier AB (Direction of two CRNAs) Base Units - 10% + Time Units (1 = 30 minutes) × $15 = Payment

Modifier AC (Direction of three CRNAs) Base Units - 25% + Time Units (1 = 30 minutes) × $15 = Payment

Modifier AD (Direction of four CRNAs) Base Units - 40% + Time Units (1 = 30 minutes) × $15 = Payment

IV. CPT-4 Procedure Codes Reimbursed on Flat Fee Basis

The following CPT-4 procedure codes will continue to be reimbursed on a flat fee basis. Current billing procedures apply.

36000	*36491	62279
*36010	36500	*62282
36405	36600	*62284
*36420	36620	*62289
*36425	*36625	*62290
36430	36640	*62291
*36440	62270	*62292
*36470	62273	
*36471	62274	
*36490	62278	

Under the State Nursing Practice Act, CRNAs do not have the authority to perform the procedures listed above which are marked with an asterisk.

V. Reimbursement for Maternity-Related Anesthesia

Maternity-related anesthesia will be reimbursed on a flat fee basis at three levels differentiated by who personally administers the anesthesia — the anesthesiologist, the CRNA, or the surgeon/delivery physician. The only exception is general anesthesia for vaginal delivery which will continue to be reimbursed according to base units and time units. The flat fee will be paid in accordance with the CPT-4 procedure code and appropriate modifier for both vaginal and cesarean deliveries.

The surgeon or delivering physician will be reimbursed when he initiates the epidural procedure with inclusion of the appropriate procedure with inclusion of the appropriate procedure code modifier.

The anesthesiologist or CRNA who is called in to continue administering the anesthesia after the epidural was inserted will be reimbursed for the continued administration of the anesthesia modifier. Anesthesia and operative reports must substantiate the modifier utilized.

Anesthesiologists and/or CRNAs may not bill for both continued administration and general anesthesia.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medicaid Program. The rule was previously adopted by emergency rulemaking effective November 1, 1990, and published in the *Louisiana Register* on October 20, 1990, Vol. 16, No. 10; February 20, 1991, Vol. 17, No. 2; June 20, 1992, Vol. 17, No. 6; and October 20, 1991, Vol. 17, No. 10. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

Currently, hospitals providing Title XIX services, including those in rural areas, are reimbursed based on allowable costs, subject to a per discharge limitation or per diem limitation for certain special care units. The department is utilizing emergency rulemaking to change the reimbursement methodology for rural hospitals with 60 beds or less

which have a service municipality with a population of 20,000 or less. Effective for admissions November 1, 1990, rural hospitals which meet this criterion will be reimbursed for inpatient hospital services based on allowable costs as defined by Medicare principles of reimbursement.

The department's intent in making this change in reimbursement methodology for rural hospitals is to enhance and assure access to medical care for eligible Medicaid recipients in rural areas of the state. In addition, this change, while providing additional reimbursement to these facilities, is expected to result in an overall cost savings as patients will be provided services in these rural hospitals when appropriate services are available, rather than being referred to large urban hospitals where the costs are higher. The change will also permit reasonable and necessary increases in costs to meet those additional costs engendered by medical manpower shortages in rural areas as well as higher transportation costs for supplies and equipment.

RULE

The reimbursement for inpatient hospital services to rural hospitals (as defined by Medicare) with 60 licensed beds or less which have a service municipality with a population of 20,000 or less shall be based on allowable costs as defined by Medicare principles of reimbursement. Cost per discharge limitations shall not be applied for these facilities.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Medicaid Program. This rule was previously adopted by emergency rulemaking and published in the June 20, 1991 issue of the *Louisiana Register* Volume 17, No. 6; and on October 20, 1991, Volume 17, No. 10. This rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

Medicaid currently reimburses for inpatient hospital services allowable costs subject to a cost per discharge limit. However, because of the long lengths of stay and intensive services, this reimbursement does not adequately address the costs of hospitals providing services to patients with traumatic brain injury (TBI). In-state hospitals capable of providing inpatient services to TBI patients are reluctant to accept these patients due to the adverse effect on their over-all reimbursement. Therefore, effective for services July 1, 1991 and after, the reimbursement for head injury patients shall be handled separately as a "carve-out unit" and shall not be subject to the cost per discharge limit applicable to non-carve-out unit admissions. This will address the additional costs of such facilities. This emergency rule will then ensure the availability of treatment in-state for traumatic brain injury Medicaid patients. Thus, imminent peril to the health and welfare of these individuals due to non-availability of these services will be avoided.

Emergency Rule

Effective for services provided to traumatic brain injury patients who are Medicaid eligible, the Bureau of Health Services Financing shall revise Medicaid reimbursement for hospital inpatient services to provide for such services to be reimbursed as a carve-out unit subject to Medicare principles of allowable costs. Such services shall not be subject to the cost per discharge limitation applicable to non-carve-out unit admissions. Hospitals must maintain separate accounting and other documentation for such admissions and services as to permit audit of the costs related to such services. Additional cost reporting forms must be completed as designated by the department. Implementation of the rule is dependent on the approval of the Health Care Financing Administration (HCFA). Disapproval of the change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections
Office of State Fire Marshal

In accordance with the provisions of R.S. 40:1725 et seq., the office of state fire marshal hereby adopts the 1991 edition of the Standard Building Code as published by the Southern Building Code Congress International, Inc. and the 1990 edition of the National Electric Code as published by the National Fire Protection Association as the State Uniform Construction Code. Except as provided for in §4003 below.

Title 55
PUBLIC SAFETY
Part V. Fire Protection

Chapter 40. State Uniform Construction Code

§4001. State Uniform Construction Code

A. Plans and specifications for all structures constructed after December 31, 1991 shall comply with the minimum standards contained in the State Uniform Construction Code.

B. Alterations, remodeling or repairs performed after December 31, 1991 to existing buildings, shall be performed in accordance with §101.5.1 of the 1991 edition of the Standard Building Code.

C. Existing buildings in which a change of occupancies is proposed after December 31, 1991, shall be governed by §101.5.2 of the 1991 edition of the Standard Building Code.

§4003. Exemptions

Political subdivisions which have lawfully adopted and continue to enforce a building code other than the Uniform Construction Code, shall be exempt from the provisions of R.S. 40:1725 et seq. and LAC 55:V:4001 et seq. through May 30, 1992.

V.J. Bella
State Fire Marshal

DECLARATION OF EMERGENCY

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule in the Adoption Program. Emergency rulemaking is necessary as Act 519 (H.B. 1420) became effective 60 days after the close of the 1991 Legislative Session.

This rule is mandated by Act 519 of the 1991 Session of the Louisiana Legislature which amends and reenacts R.S. 40:91(D) and 92(B) to revise the State Voluntary Registry Act with respect to age limitations and time within which to match registrants.

EMERGENCY RULE

Effective September 6, 1991, adoptees and birth parents may register in the State Voluntary Register when the adoptee reaches 18 years of age. The registration will remain in effect indefinitely. The registration may be withdrawn by the adoptee or birth parent at any time by a written request.

May Nelson
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective October 1, 1991 in the Food Stamp Program.

Emergency rulemaking is necessary to comply with USDA Food and Nutrition Service directives to implement federal regulations at 7 CFR 273.8 (e)(17).

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

Title 67
Department of Social Services
Part III. Office of Family Support
Subpart 3. Food Stamps

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Chapter 19. Certification of Eligible Households

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Subchapter H. Resource Eligibility Standards

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§1949. Exclusions From Resources

A. Effective October 1, 1991, resources of an individual household member who receives SSI or AFDC benefits shall be excluded for food stamp purposes during the period the resources are excluded under SSI or AFDC policy if the individual meets the gross income limit for a one-person household.

1. This policy change is applicable to *mixed (NPA) food stamp households*, i.e., households in which all members do not receive SSI and/or AFDC.

2. The resource shall be counted in the household's resource calculation when it is no longer excluded under SSI or AFDC policy.

AUTHORITY NOTE: Promulgated in accordance with F. R. 52:26937 et seq., 7 CFR 273.8.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:656 (November 1987).

May Nelson
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective October 1, 1991 in the Refugee Cash Assistance (RCA) Program.

Emergency rulemaking is necessary to comply with a directive from the Office of Refugee Resettlement in the U.S. Department of Health and Human Services to implement this change in the eligibility period for Refugee Cash Assistance effective October 1, 1991.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III., Subpart 7. Refugee Cash Assistance.

Title 67
DEPARTMENT OF SOCIAL SERVICES
Part III. Office of Family Support
Subpart 7. Refugee Cash Assistance
Chapter 37. Application, Eligibility, and Furnishing Assistance
Subchapter B. Coverage and Conditions of Eligibility
§3703. Eligibility Periods

Periods of eligibility for Refugee Cash Assistance will be determined by, and are subject to change according to, the extent of federal funding available. As such eligibility periods may vary based on federal appropriations, these eligibility periods are determined by the Office of Refugee Resettlement of the U.S. Department of Health and Human Services. The Department of Social Services shall provide notice of these eligibility periods by means of Potpourri Notices in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 400.202.

May Nelson
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

In accordance with the emergency provisions of R.S. 49:953(B) the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set annual seasons, and R.S. 56:433 which establishes responsibility for oyster management to the Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries, the secretary, pursuant to resolutions passed by the Wildlife and Fisheries Commission on August 12, 1991 at LUMCON hereby declares an emergency and adopts the following:

The oyster season for the taking of Seed Oysters on the Bay Gardene Oyster Seed Reservation (Plaquemines Parish) east of the Mississippi River will reopen one-half hour before sunrise January 15, 1992 and will continue to one-half hour after sunset on April 1, 1992.

The "Oyster Seed Reservations" are generally managed as an oyster stock reserve. This reopening action is being taken because of very promising oyster sets in the state particularly east of the Mississippi River and thus less of a need of reserve for the 1992-1993 oyster season.

The oyster season in the Calcasieu and Sabine Lake Tonging area will be extended until one-half hour after sunset April 1, 1992 to compensate for closure days for health reasons.

All oysters fished for commercial purposes must be three inches and larger.

A. Kell McInnis, III
Secretary

Rules

RULE

Department of Economic Development
Office of Business Development Services

The Department of Economic Development, Office of Business Development Services, has exercised the provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following rule relative to the Regional Economic Development Alliance program.

This rule creates the Regional Economic Development Alliance program as authorized by Acts 1991, No. 490, Regular Session; R.S. 39:108(E).

Title 13
ECONOMIC DEVELOPMENT
Part I. Commerce and Industry
Subpart 2. Development Services

Chapter 11. Regional Economic Development Alliance

§1101. Purpose of Rule

The purpose of this rule is to create the Regional Economic Development Alliance (REDA) program within the Department of Economic Development (DED), Office of Business Development Services, as authorized by Acts 1991, No. 490, Regular Session; R.S. 39:108(E).

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:108(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, LR 18: (January 1992).

§1103. Definition of REDA

A REDA is a coalition of existing economic development organizations which join together for the purpose of jointly determining the economic development needs of a multi-parish geographical area and providing certain economic development services through a funding contract provided by DED.

A. A REDA is not a single existing organization or a newly-formed organization.

B. A REDA will include economic development entities which may include, by way of example, chambers of commerce, utilities, port authorities, universities, colleges, community colleges, SBDCs, economic development foundations, parish and municipal governments, planning districts, etc., which have an interest in the geographical area served by the REDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:108(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, LR 18: (January 1992).

§1105. REDA Contracts

DED will enter into contracts with REDAs to provide certain specified services. The contracts will be formed as follows:

A. DED will distribute a Solicitation of Proposal or equivalent document each fiscal year which will outline the basic services DED will require and may outline examples of special services which may be solicited and detail the distribution of available funding.

B. REDAs throughout the state will respond to the solicitation by submitting a proposal for services in accordance with the solicitation of proposal document.

C. DED will review all REDA proposals received and will select proposals for awarding contracts in a manner that meets the needs and purposes of the program within the annual funding limitations of the program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:108(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, LR 18: (January 1992).

§1107. Performance of Contracts

DED staff will closely monitor the performance of all REDA contracts to ensure full compliance with their terms. DED staff will provide technical assistance where necessary to advise the REDAs in the performance of their contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:108(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, LR 18: (January 1992).

§1109. Funding Formula

DED will devise a funding formula each year for the distribution of program funding. The formula will be based on

various economic and demographic factors that are representative of the state's varied geographical areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:108(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development Services, LR 18: (January 1992).

Kirsten A. Nyrop
Secretary

RULE

Department of Economic Development
Office of Financial Institutions

Under the authority of the Louisiana Business and Industrial Development Corporation Act, LSA R.S. 51:2386, et seq., and in accordance with the provisions of the Administrative Prodcedure Act, LSA R.S. 49:950, et seq., the commissioner hereby adopts the following rule to implement the provisions of the Louisiana Business and Industrial Corporations Act (Act 506 of the 1991 Regular Session) effective January 20, 1992.

Title 10
BANKS, CREDIT UNIONS, SAVINGS AND LOANS, UCC, AND CONSUMER CREDIT
Part I. Banks
Chapter 27. Business and Industrial Development Corporations

§2701. Declaration of Policy

It is the declared policy of the Office of Financial Institutions to provide for the licensing and regulation of Louisiana corporations as business and industrial development corporations authorized by Act 506 of the 1991 Louisiana Legislature, which will aid in the increasing of job opportunities in this state; promote establishment of growth and expansion of business firms in this state; provide a vehicle to offer financing assistance and management assistance to business firms through the small business administration and to more effectively regulate and supervise Louisiana corporations licensed as business and industrial developments corporations to give greater permanence of existence and better assurance of uninterrupted service to business firms in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18: (January 1992).

§2703. Definitions

This chapter contains definitions which supplement the definitions provided for in the Louisiana Business and Industrial Development Act, LSA R.S. 51:2386, et seq.

A. *Business and Industrial Development Corporation (BIDCO)* - means a Louisiana corporation organized to help meet the financing assistance and management assistance needs of business firms in the state of Louisiana.

B. *Incorporating Statute* - means the Louisiana Business Corporation Law, LSA R.S. 12:1 et seq, or any other provision of law under which a licensee is incorporated.

C. *Commissioner* - means the commissioner of the office of financial institutions of the Department of Economic Development.

D. *Applicant* - means a Louisiana corporation organized under an incorporating statute which applies to the commissioner for a license.

E. *Application* - an application shall consist of the necessary forms prescribed by the commissioner, submitted in a completed form to the commissioner with all supporting documents requesting that a license be granted.

F. *Person* - means a natural person or legal entity qualified to seek a license as a business and industrial development corporation.

G. *Business Plan* - a narrative providing a general description of the proposed business and industrial development corporation which should include at a minimum a description of the BIDCO's organizational structure; its location; the types of lending and financing it intends to offer and to whom; whether it intends to provide management assistance and if so, to what extent and to whom; and whether the BIDCO will operate as a profit or non-profit corporation.

H. *Institution Affiliated Party* - means a director, officer, employee, agent, controlling person, and other person participating in the affairs of the BIDCO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18: (January 1992).

§2705. General Provisions

A. Application and contents - the application shall be in such form and contain such information as the commissioner may from time to time prescribe. The commissioner may refuse to accept an application for filing until the applicants have submitted all required information. The application will contain a public section and a confidential section. The public portion of the application shall consist of the comments and information submitted by interested parties in favor of or in opposition to such application, the justification for preliminary approval, statement of purpose, description of the business, management and convenience and needs of the community. After the application is completed to the satisfaction of the commissioner, the application may be accepted for filing and for preliminary approval, if so requested.

B. Books and Records

1. A licensee shall make and keep its records in conformity with generally accepted accounting principles.

2. A licensee shall make and keep all of its records at its main office as identified in its application for a license, unless otherwise provided by the Louisiana Business and Industrial Development Corporation Act or at some other location authorized by prior written approval of the commissioner.

3. All books and records of a BIDCO shall be retained for the periods of time set in the regulation promulgated in Volume 9, No. 10 of the *Louisiana Register*, published October 20, 1983, which is incorporated herein by reference.

C. Commencement of Business - for purposes of this regulation, an applicant shall be deemed to commence business at the time when, the commissioner having issued such applicant a license, the applicant opens for the purpose of transacting business as a BIDCO pursuant to the Louisiana

Business and Industrial Development Corporation Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18: (January 1992).

§2707. Reports

A. The Board of Directors for each BIDCO licensed by the commissioner shall annually make a report of examination of the financial condition of the BIDCO and its subsidiaries. They may make said examination by employing an independent certified public accountant, their respective accounting firms, or by the use of an in-house auditor and clerical staff. All such audits of a BIDCO must meet the minimum standards promulgated by the Commissioner of Financial Institutions. To meet the minimum auditing standards, the board of directors shall employ the methods of auditing described in the regulation promulgated by the Office of Financial Institutions in Volume 16, No. 1 of the *Louisiana Register* dated January 20, 1990, which is incorporated herein by reference. This report of examination shall be submitted to the commissioner no later than April 30 of the calendar year following the period for which the report was prepared.

B. Election of directors - not more than 30 days after the election of any person as the director of a licensee, such licensee and such director shall file with the commissioner a report containing the following information:

1. name, address and occupation of the new director;

2. title of any office which the director previously held with the licensee and title of any office (other than the office of director) which the director currently holds with the licensee;

3. date of election of the director;

4. manner of election of the director (that is, whether by the board or by the shareholders);

5. in case a director is not an incumbent director or executive officer of the licensee, the licensee shall provide:

a. a personal financial statement and confidential resumé on a form prescribed by the commissioner, containing the information called for therein, as of a date within 90 days before the filing of the report and signed by the newly elected director;

b. not more than 10 days after the appointment of any person as the chief executive officer of a licensee and not more than 30 days after the appointment of any person as any other executive officer of a licensee, such licensee and such executive officer shall file with the commissioner a report containing the following information:

i. name and address of the executive officer;

ii. title of the office to which the executive officer was appointed;

iii. a summary of the duties of the office to which the executive officer was appointed;

iv. date of appointment of the executive officer;

v. title of any office which the executive officer previously held with the licensee and title of any office (other than the office to which the executive officer was appointed) which the executive officer currently holds with the licensee;

vi. in case the executive officer was not, immediately before the appointment, an executive officer of the licensee, licensee shall provide a personal financial statement and confidential resumé on the form prescribed by the commissioner, containing the information called for therein, dated as of a date within 90 days before the filing of the report, and signed by the newly appointed executive officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18: (January 1992).

§2709. Licensing Procedures, Instructions and Guidelines

A. The application shall contain the following specific information:

1. name of applicant;

2. date of application;

3. address of applicant;

4. Louisiana corporate certification number and certified copies of the articles of incorporation and initial report filed with the Louisiana Secretary of State;

5. a federal tax identification number;

6. phone number, address and zip code;

7. a copy of any bylaws executed by the board of directors;

8. the designation of a correspondent, agent or person responsible for responding to questions relating to the application;

9. a resolution of the board of directors of the applicant corporation authorizing, empowering and directing an officer of the applicant corporation to apply for a license as a BIDCO, and to sign said application;

10. financial statements for all incorporators and initial directors;

11. the justification for preliminary approval, if so requested in the application;

12. description of the BIDCO's business plan, in a narrative form, which shall include, at a minimum, the following:

a. a description of the BIDCO's statement of purpose and organization;

b. types of lending and financing it intends to offer and to whom;

c. whether it intends to provide management assistance, and if so, to what extent and to whom;

d. will the BIDCO be a profit or nonprofit corporation;

e. proforma financial statements for the three consecutive years following the filing of the application, showing future earnings prospects;

f. a proposed net worth structure as required by R.S. 51:2392(B)(2).

13. a list of all of the directors, officers and controlling persons;

14. biographical information concerning the proposed directors, officers and controlling persons, including personal information, resumé of each person's education, their employment record and prior associations or position with other BIDCO's and in what capacity in or out of Louisiana;

15. other pertinent information required by the commissioner.

B. Denial of License. The commissioner in his sole discretion may deny an application for a license as a Business and Industrial Development Corporation for the following non-exclusive reasons:

1. the applicant is not qualified as a BIDCO concern under R.S. 12:1 et seq.;

2. the applicant is in the process of having its charter revoked or is in litigation or in some other process affecting

its further solvency or its status as a chartered organization;

3. the board of management of the applicant does not possess, in the judgment of the commissioner, sufficient competence to manage properly and prudently any funds which may be provided to it by a state funded assistance program;

4. the applicant has not demonstrated that it is fully conversant with the legislative intent of Act 506 of the 1991 regular session, "The Louisiana Business and Industrial Development Corporation Act" and with these regulations developed pursuant to it, and that it is not fully committed to carry out the letter and spirit of said law and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18: (January 1992).

§2711. Small Business Administration

A. If an applicant desires to participate in a program of the Small Business Administration, (*SBA*) and it is indicated that it will have this as a significant portion of its business plan, it will be necessary to obtain SBA's approval before it can be licensed as a BIDCO.

B. When a BIDCO contemplates having at least one-half of its investments in qualified Small Business Administration loans, that shall constitute a significant portion of its business plan for purposes of this regulation.

C. If said approval cannot be obtained prior to the approval of the application for a license as a BIDCO, the commissioner in his sole discretion, may determine that the SBA approval is imminent, and may issue a license prior to final SBA approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2386, et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18: (January 1992).

Larry L. Murray
Commissioner

RULE

Department of Economic Development
Office of Financial Institutions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to R.S. 9:3554(B), the Department of Economic Development, Office of Financial Institutions amends its Records Retention Rule for licensed lenders, LAC 10:VII.301.

Title 10
BANKS AND SAVINGS AND LOANS
Part VII. Consumer Credit
Chapter 3. Records Retention
§301. Licensed Lenders

A. Recordkeeping. The following records are to be maintained by each licensed lender at its licensed location in compliance with the provisions of R.S. 9:3554(L) and R.S. 9:3561(A) of the Louisiana Consumer Credit Law.

* * *

9. Evidence of indebtness or investment. Provide a complete list of the holders of all notes, debentures, or other evidence of indebtedness or investment issued by the licensee, excluding loans from supervised financial institutions or rediscount lenders, but including the following:

* * *

11. Club memberships. As to the sale or financing of any club memberships authorized or allowed under the Louisiana Consumer Credit Law, including but not limited to, thrift and buying clubs, auto clubs or similar consumer benefit club memberships:

a. any written disclosures made to the consumer that the sale of the club membership is not a factor in the approval of a consumer loan;

b. consumer's specific affirmative written indication of his desire to purchase the club membership after receiving written disclosure of the cost;

c. any written disclosures made to the consumer of the cost of the club membership;

d. copies of all brochures, promotional materials, club membership contracts, or other documents or materials, whether written, videotaped, or in other electronic form, which consumers are offered, shown, given or sign in connection with the offer, sale or financing of club memberships.

B. Period for retention of records. All records must be retained for at least two years after the account is paid in full, or any insurance coverage remaining in force after the account has been paid has lapsed, unless required by law to be retained for a longer period. Records are required to be kept indefinitely during the pendency of an investigation or enforcement proceedings involving alleged violations.

C. Variance. After considering the particular facts and circumstances of an individual licensed lender's recordkeeping procedures, and the public interest in promoting the efficiency and effectiveness of compliance examinations, the commissioner may formally grant a variance to a licensed lender to any requirement in this Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3554(L) and 9:3561(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 17:588 (June 1991), amended LR 18: (January 1992).

Larry L. Murray
Commissioner

RULE

Department of Economic Development
Real Estate Commission

The Department of Economic Development, Real Estate Commission has adopted revisions to the existing rules and regulations of the agency, the text of which appears in the emergency rule section of this January, 1992 issue of the *Louisiana Register*, specifically LAC 46:LXVII, Subpart I, Chapter 34.

Jane H. Moody
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 741 - Standard 2.099.00

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following revision to Standard 2.099.00 of Bulletin 741:

Bulletin 741, Louisiana Handbook
for School Administrators
HIGH SCHOOL GRADUATION REQUIREMENTS

Under Standard 2.099.00, add the following:

Effective with the 1991-92 freshman class, no student will be allowed to earn more than one Carnegie Unit (two classes) of credit for approved remediation courses.

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

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Presidential Election Day

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, reinstated the former policy which declared general election day a holiday every four years for the presidential election as stated below:

Bulletin 741, Louisiana Handbook
for School Administrators
Standard 1.009.16

General election day shall be designated by each school system as a holiday every four years for the presidential election.

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

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Curriculum Guide for Integrated
Algebra/Geometry

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the Curriculum Guide for Integrated Algebra/Geometry.

Bulletin 741, Louisiana Handbook
for School Administrators
Curriculum Guide for Integrated
Algebra/Geometry

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

A copy of this rule can be obtained from the office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA 70804.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Bulletin 741 - Vocational
Education Standards

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, approved revisions to Bulletin 741, Louisiana Handbook for School Administrators — Vocational Education Standards. These revisions were adopted as an emergency rule, effective August 22, 1991 and printed in full in the September, 1991 issue of the *Louisiana Register.*

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 18: (January 1992).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Revision to Bulletin 1822, Competency Based
Postsecondary Curriculum Outlines

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following revision to Bulletin 1822, *Competency Based Postsecondary Curriculum Outlines.*

Bulletin 1822, Competency Based Postsecondary Curriculum Outlines

Course Title	Length	
Emergency Medical Technician	1161 hrs.	12 mos.
Basic		
Intermediate		
Paramedic		
Hospitality and Tourism		
Airline & Travel Agency Procedures	975 hrs.	9 mos.
Hotel/Motel Operations	885 hrs.	8 mos.
Meeting & Convention Planning	795 hrs.	7 mos.
Tour Guide/Escort Planner	840 hrs.	7½ mos.
Unit Clerk/Coordinator	350 hrs.	13 wks.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Classes of Certification and Certificate Types

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, discontinued the teaching certificate types adopted as a result of the Children First Legislation, (Provisional, Provisional-in-Remediation, and Renewable Professional) and reinstated the certificate types (Types A, B, and C) issued prior to Children First Legislation.

This action supersedes a rule adopted in October 1990 and printed in full in the July, 1990 issue of the *Louisiana Register*. See the September, 1991 issue of the *Louisiana Register* for complete text of present types of teaching certificates, (A, B, and C).

CERTIFICATES

STANDARD CERTIFICATES

Notations will be placed on each certificate of Type C, B, or A to show specific authorization of the level(s) and the field(s) in which employment is authorized. A certificate authorizes employment only at the level(s) and in the field(s) shown by endorsement thereon. Only those authorizations listed in this bulletin may be placed on a valid Louisiana certificate.

Type C

A Type C certificate is based upon a baccalaureate degree including completion of a teacher education program approved by the State Board of Elementary and Secondary Education, with credits distributed as hereinafter provided, including general, professional, and specialized academic education. This certificate authorizes employment for a period of not more than three years for services endorsed thereon.

Type B

A Type B certificate is based upon a baccalaureate or higher degree including completion of a teacher education program, approved by the State Board of Elementary and Secondary Education, with credits distributed as hereinafter provided, including general, professional, and specialized academic education, and requires that the applicant show three years of successful teaching experience in his properly certified field. The experience must be validated by the employing authority. This certificate is valid for life for continuous service for services endorsed thereon.

Type A

A Type A certificate is based upon a baccalaureate degree including completion of a teacher education program approved by the State Board of Elementary and Secondary Education, with credits distributed as hereinafter provided, including general, professional, and specialized academic education, a master's or higher degree from an approved institution, and five years of successful teaching experience in the properly certified field. The experience must be validated by the employing authority. This certificate is valid for life for continuous service for services endorsed thereon.

AUTHORITY NOTE: R.S. 17:3891 et seq.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to the Louisiana Annual
Special Education Program Plan for FY 91-93

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the federally required amendments to page 21 of the Louisiana Annual Special Education Program for FY 91-93.

These amendments were also adopted as an emergency rule, effective August 22, 1991 and printed in the September, 1991 issue of the *Louisiana Register*.

AMEND PAGE 21 TO READ:

Formal parental approval for the release of the educational record must be given by a parent who understands and agrees, in writing, to the list of persons or agencies to whom the records will be released.

Independent Individual Evaluation

For the purpose of this part:

Independent educational evaluation — means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.

Public expense — means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

The parents of an exceptional child have the right to obtain an independent individual evaluation of the child, in accordance with the following:

Independent individual — evaluation means an evaluation conducted according to the criteria in Bulletin 1508 and Bulletin 1706. Each public agency shall provide to parents upon request information about where an individual evaluation may be obtained. An independent evaluation is not necessarily a private evaluation.

A parent has the right to an independent individual

evaluation that meets the requirements of Bulletin 1508. This individual evaluation shall be at public expense (without charge) in the following instances:

1. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent, the school system initiates a hearing within 10 operational days of the written notice, and the hearing officer decides whether the parent was correct.

2. If a hearing officer requests an independent evaluation as part of a hearing.

3. If the parent gives written notice of disagreement with the evaluation provided by the school system and the school system disagrees with the parent but does not request a hearing.

Failure of a parent to provide a school district with written notice of a disagreement with the school district evaluation does not relieve the school district of its responsibility to pay for an independent educational evaluation that meets the other requirements as stated above.

Parents have the right to obtain an individual evaluation at their own expense. It is advisable for parents to determine if Bulletin 1508 criteria will be met.

AUTHORITY NOTE: R.S. 17:1941 et seq.

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Temporary Employment Permits

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following policy on Temporary Employment Permits.

A temporary employment permit, valid for one school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirements must be met.

Temporary Employment Permits

A temporary employment permit, valid for one school year, will be granted to those candidates who meet the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirements must be met.

When no area examination is required, a temporary employment permit will be granted to candidates who meet qualifying scores in two out of three modules of the Core Battery and whose aggregate score is equal to or above the total score on all three modules of the Core Battery required for certification. All other standard certification requirements must be met.

To employ an individual on a temporary employment permit, a local superintendent would be required to verify that no regularly certified teacher is available for employment. Names of the individuals employed on a temporary employment permit should be listed on the addendum to the annual school report with verification that no regularly certified teacher is available.

An individual can be reissued a permit under the board policy only if evidence is presented to the Department of Education that the NTE has been retaken within one year from the date the permit was last issued, and the reissuance shall not occur but once.

Temporary employment permits will be issued at the request of individuals who meet all requirements for regular certification with the exception of the NTE scores. All application materials required for issuance of a regular certificate must be submitted to the Bureau of Higher Education and Teacher Certification with the application for issuance of a temporary employment permit.

This policy will remain in effect until July 1, 1993.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 18: (January 1992).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

Amendment to LAC 28:1.
Section 1523E. 20

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following amendment to the Louisiana Administrative Code as stated below:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical Education
§1523. Students

* * *

E. Fees for Louisiana Residents

* * *

20. Technical institute directors may allow a maximum of 10 minutes per instructional hour for instructional preparation/administrative purposes. EXAMPLE: 30 hour course - the institute director may grant five hours (30 hours × 10 minutes = 300 minutes/5 hours) for instructional/administrative purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1953 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 18: (January 1992).

Carole Wallin
Executive Director

RULE

Elementary and Secondary Education

Amendment to LAC 28:1.
Section 1523E. 15 and 16

Notice is hereby given that the Board of Elementary and Secondary Education, pursuant to notice of intent published October 20, 1991 and under the authority contained in the Louisiana Constitution (1974), Article VIII, Section 3, Act 800 of the 1979 Regular Session, adopted the following amendment to the Louisiana Administrative Code as stated below:

Title 28
EDUCATION
Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical Education
§1523. Students

* * *

E. Fees for Louisiana Residents

* * *

15. Tuition for extension classes for which the instructor's salary is paid by the institute shall not exceed $2 per hour of classroom instruction with a minimum of $10

OR

16. Tuition for extension classes may be above $2 per instructional hour when approved by the State Board of Elementary and Secondary Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1997.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 18: (January 1992).

Carole Wallin
Executive Director

RULE

Department of Employment and Training
Plumbing Board

The Louisiana State Plumbing Board has adopted, pursuant to R.S. 49:950 et seq. the Administrative Procedure Act, regulations to clarify the licensing and related fee obligations of restricted master plumbers and to implement the master plumber insurance requirement imposed by Act 759 of the 1991 Regular Session of the Louisiana Legislature.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LV. Plumbers
Chapter 3. Licenses
§307. Renewals

* * *

D. A person who has allowed his previously issued master plumber license, inactive master plumber license or restricted master plumber license to expire may be afforded the option, in lieu of re-examination, of paying a special revival fee of $250 per year for each year the license was not renewed up to a limit of four consecutive years. A person who qualifies for issuance of a restricted master plumber license by virtue of R.S. 37:1368(C) or (D), as amended by Act 752 of the 1990 Regular Session, must apply for such license on or before December 31, 1991. A first time application by any such person after December 31, 1991 will be subject to the revival fee provisions. Any person who performs the work of a master plumber without possessing a license issued by the board during any period of lapsed license or prior to applying for a restricted master plumber license as provided herein shall be subject to the special enforcement fee established in §306.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended by the Department of Employment and Training, LR 17:53 (January 1991), LR 18: (January 1992).

§308. Insurance Requirements for Master Plumbers

A. No master plumber or restricted master plumber license shall be issued, renewed, or revived until the applicant has provided proof acceptable to the board that insurance has been issued to the employing entity which is designated in accordance with R.S. 37:1367 by an insurer authorized to do business in this state.

B. The employing entity shall maintain:

1. worker's compensation insurance as required by law;

2. motor vehicle bodily injury and property damage liability insurance in the minimum amount required by law;

3. comprehensive general liability and property damage insurance in a minimum amount of $100,000, except on plumbing work done in parishes under 30,000 persons in population; on buildings, residences, or structures being no more than 6,000 square feet of interior space, the minimum aggregate amount shall be $50,000.

C. The provisions of this Section shall not apply to master plumbers applying for and being issued an inactive master plumber license.

D. The certification of insurance shall contain a provision, and the policy so endorsed, that the insurance carrier shall notify the board, in writing; of any change in or cancellation of the insurance policy or policies at least 30 days prior thereto.

E. In the event a master plumber or restricted master plumber changes his designation of an employing entity, the insurance requirements of this Subsection shall remain in effect.

F. A licensed journeyman plumber performing "repairs" as defined in §101(E) and §301(E) shall be subject to the insurance requirements of this Subsection.

G. Any master plumber or restricted master plumber subject to the lesser comprehensive general liability and property damage insurance requirements in parishes described in §308.B.3 on the type of work described therein shall be subject to the greater insurance requirements generally imposed on master plumbers and restricted master plumbers when performing work in all other parishes or on buildings, residences or structures being more than 6,000 square feet of interior space in any parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366 and R.S. 37:1377.

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended by the Department

of Employment and Training, LR 17:53 (January 1991), LR 18: (January 1992).

Don Traylor
Executive Director

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Air Quality Regulations, LAC 33:III.4885, Log number AQ39.

The proposed regulations will establish the identical standards as those established by EPA for controlling VOC emissions from magnetic tape coating operations. These regulations also include test methods, provisions for monitoring devices, reporting and recordkeeping requirements. See *Federal Register* dated October 3, 1988, 53 FR 38891, number 191.

Copies of this rule are available at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Room 512, Baton Rouge, LA 70802.

J. Terry Ryder
Assistant Secretary

RULE

Department of Environmental Quality
Office of Air Quality and Radiation Protection

(Editor's Note: §6523, which appeared as a rule in the *Louisiana Register*, December, 1991, page 1205 is being republished to correct a typographical error.)

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 65. Rules and Regulations for the Fee System of the Air Quality Control Programs

§6523. Fee Schedule Listing

* * *

Fee Number	Fee Description	Amount
2200*Note 13	Air Toxics Annual Fee per ton emitted on an annual basis	
	Class I Pollutants	$100
	Class II Pollutants	$ 50
	Class III Pollutants	$ 25

EXPLANATORY NOTES FOR FEE SCHEDULE

* * *

NOTE: 13 - Fees will be determined by aggregating actual annual emissions of each class of toxic air pollutants (as delineated in LAC 33:III.Chapter 51, table 51.1) for a facility and applying the appropriate fee schedule for that class. Fees shall not be assessed for emissions of a single toxic air pollutant over and above 4,000 tons per year from a facility.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 13:741 (December 1987), amended LR 14:610 (September 1988), LR 15:735 (September 1989), LR 17: (December 1991), repromulgated LR 18: (January 1992).

J. Terry Ryder
Assistant Secretary

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Louisiana Air Quality Regulations, LAC 33:III.4887 (AQ40).

These proposed regulations will establish the identical standards as those established by EPA for controlling VOC emissions from industrial surface coating operations. These regulations also include test methods, reporting and recordkeeping requirements. See *Federal Register* dated January 29, 1991, 53 FR 2672, #19.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources

* * *

§4887. Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines (Subpart TTT)

A. Applicability and Designation of Affected Facility

1. The provisions of this Section apply to each spray booth in which plastic parts for use in the manufacture of business machines receive prime coats, color coats, texture coats, or touch-up coats.

2. This Section applies to any affected facility for which construction, modification, or reconstruction began after January 8, 1986.

B. Definitions

1. As used in this Section, all terms not defined herein shall have the meanings given them in LAC 33:III.3103 and LAC 33:III.111.

Business Machine—a device that uses electronic or mechanical methods to process information, perform calculations, print or copy information, or convert sound into electrical impulses for transmission, such as: products classified as typewriters under SIC Code 3572; products classified as electronic computing devices under SIC Code 3573; products classified as calculating and accounting machines un-

der SIC Code 3574; products classified as telephone and telegraph equipment under SIC Code 3661; products classified as office machines, not elsewhere classified, under SIC Code 3579; and photocopy machines, a subcategory of products classified as photographic equipment under SIC Code 3861.

Coating Operation—the use of a spray booth for the application of a single type of coating (e.g., prime coat); the use of the same spray booth for the application of another type of coating (e.g., texture coat) constitutes a separate coating operation for which compliance determinations are to be performed separately.

Coating Solids Applied—the coating solids that adhere to the surface of the plastic business machine part being coated.

Color Coat—the coat applied to a part that affects the color and gloss of the part, not including the prime coat or texture coat. This definition includes fog coating, but does not include conductive sensitizers or electromagnetic interference/radio frequency interference shielding coatings.

Conductive Sensitizer—a coating applied to a plastic substrate to render it conductive for purposes of electrostatic application of subsequent prime, color, texture, or touch-up coats.

Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coating—a conductive coating applied to a plastic substrate to attenuate EMI/RFI signals.

Fog Coating (also known as mist coating and uniforming)—a thin coating applied to plastic parts that have molded-in color or texture or both to improve color uniformity.

Nominal One-month Period—either a calendar month, 30-day month, accounting month, or similar monthly time period that is established prior to the performance test (i.e., in a statement submitted with notification of anticipated actual start-up pursuant to LAC 33:III.3113).

Plastic Parts—panels, housings, bases, covers, and other business machine components formed of synthetic polymers.

Prime Coat—the initial coat applied to a part when more than one coating is applied, not including conductive sensitizers or electromagnetic interference/radio frequency interference shielding coatings.

Spray Booth—the structure housing automatic or manual spray application equipment where a coating is applied to plastic parts for business machines.

Texture Coat—the rough coat that is characterized by discrete, raised areas on the exterior surface of the part. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.

Touch-up Coat—the coat applied to correct any imperfections in the finish after color or texture coats have been applied. This definition does not include conductive sensitizers or EMI/RFI shielding coatings.

Transfer Efficiency—the ratio of the amount of coating solids deposited onto the surface of a plastic business machine part to the total amount of coating solids used.

VOC Emissions—the mass of VOCs emitted from the surface coating of plastic parts for business machines expressed as kilograms of VOCs per liter of coating solids applied (i.e., deposited on the surface).

2. The meanings of symbols used in this Section not defined below are given in LAC 33:III.3103.

D_c = density of each coating as received (kilograms per liter).

D_d = density of each diluent VOC (kilograms per liter).

L_c = the volume of each coating consumed, as received (liters).

L_d = the volume of each diluent VOC added to coatings (liters).

L_s = the volume of coating solids consumed (liters).

M_d = the mass of diluent VOCs consumed (kilograms).

M_o = the mass of VOCs in coatings consumed, as received (kilograms).

N = the volume-weighted average mass of VOC emissions to the atmosphere per unit volume of coating solids applied (kilograms per liter).

T = the transfer efficiency for each type of application equipment used at a coating operation (fraction).

T_{avg} = the volume-weighted average transfer efficiency for a coating operation (fraction).

V_s = the proportion of solids in each coating, as received (fraction by volume).

W_o = the proportion of VOCs in each coating, as received (fraction by weight).

C. Standards for Volatile Organic Compounds

1. Each owner or operator of any affected facility subject to the requirements of this Subsection shall comply with the emission limitations set forth in this Section on and after the date on which the initial performance test, required by LAC 33:III.3115 and 4887.D, is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. No affected facility shall cause the discharge into the atmosphere in excess of:

a. 1.5 kilograms of VOCs per liter of coating solids applied from prime coating of plastic parts for business machines;

b. 1.5 kilograms of VOCs per liter of coating solids applied from color coating of plastic parts for business machines;

c. 2.3 kilograms of VOCs per liter of coating solids applied from texture coating of plastic parts for business machines; or

d. 2.3 kilograms of VOCs per liter of coating solids applied from touch-up coating of plastic parts for business machines.

2. All VOC emissions that are caused by coatings applied in each affected facility, regardless of the actual point of discharge of emissions into the atmosphere, shall be included in determining compliance with the emission limits in Subsection C.1 of this Section.

D. Performance Tests and Compliance Provisions

1. LAC 33:III.3115.D and F do not apply to the performance test procedures required by this Subsection.

2. The owner or operator of an affected facility shall conduct an initial performance test as required under LAC 33:III.3115 and thereafter shall conduct a performance test each nominal one-month period for each affected facility according to the procedures in this Subsection.

a. The owner or operator shall determine the composition of coatings by analysis of each coating, as received, using Reference Method 24 (LAC 33:III.6083) in the Division's Source Test Manual, from data that have been determined by the coating manufacturer using Reference Method 24 (LAC 33:III.6083), or by other methods approved by the administrative authority*.

b. The owner or operator shall determine the volume of coatings and the mass of VOC used for dilution of coatings from company records during each nominal one-month period. If a common coating distribution system serves more than one affected facility or serves both affected and nonaffected spray booths, the owner or operator shall estimate the volume of coatings used at each facility by using procedures approved by the administrative authority.

i. The owner or operator shall calculate the volume-weighted average mass of VOCs in coatings emitted per unit volume of coating solids applied (N) at each coating operation (i.e., for each type of coating [prime, color, texture, and touch-up] used) during each nominal one-month period for each affected facility. Each one-month calculation is considered a performance test. Except as provided in Subsection D.2.b.iii of this Section, N will be determined by the following procedures:

(a). Calculate the mass of VOCs used ($M_o + M_d$) for each coating operation during each nominal one-month period for each affected facility by the following equation:

$$M_o + M_d = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi} + \sum_{j=1}^{m} L_{dj} D_{dj}$$

where n is the number of coatings of each type used during each nominal one-month period, and m is the number of different diluent VOCs used during each nominal one-month period. ($\sum L_{dj} D_{dj}$ will be 0 if no VOCs are added to the coatings, as received.)

(b). Calculate the total volume of coating solids consumed (L_s) in each nominal one-month period for each coating operation for each affected facility by the following equation:

$$L_s = \sum_{i=1}^{n} L_{ci} V_{si}$$

where n is the number of coatings of each type used during each nominal one-month period.

(c). Select the appropriate transfer efficiency (T) from Table 1 for each type of coating application equipment used at each coating operation. If the owner or operator can demonstrate to the satisfaction of the administrative authority* that transfer efficiencies other than those shown are appropriate, the administrative authority* will approve their use on a case-by-case basis. Transfer efficiency values for application methods not listed below shall be approved by the administrative authority* on a case-by-case basis. An owner or operator must submit sufficient data for the administrative authority* to judge the validity of the transfer efficiency claims.

(d). Where more than one application method is used within a single coating operation, the owner or operator shall determine the volume of each coating applied by each method through a means acceptable to the administrative authority and compute the volume-weighted average transfer efficiency by the following equation:

$$T_{avg} = \frac{\sum_{i=1}^{n} \sum_{k=1}^{p} L_{cik} V_{sik} T_k}{L_s}$$

TABLE 1—TRANSFER EFFICIENCIES

Application Methods	Transfer Efficiency	Type of Coating
Air-atomized spray	0.25	Prime, color, texture, touch-up, and fog coats.
Air-assisted airless spray	0.40	Prime and color coats.
Electrostatic air spray	0.40	Do.

where n is the number of coatings of each type used, and p is the number of application methods used.

(e). Calculate the volume-weighted average mass of VOCs emitted per unit volume of coating solids applied (N) during each nominal one-month period for each coating operation for each affected facility by the following equation:

$$N = \frac{M_o + M_d}{L_s T_{avg}}$$

(T_{avg} = T when only one type of coating operation occurs).

ii. Where the volume-weighted average mass of VOCs emitted to the atmosphere per unit volume of coating solids applied (N) is less than or equal to 1.5 kilograms per liter for prime coats, is less than or equal to 1.5 kilograms per liter for color coats, is less than or equal to 2.3 kilograms per liter for texture coats, and is less than or equal to 2.3 kilograms per liter for touch-up coats, the affected facility is in compliance.

iii. If each individual coating used by an affected facility has a VOC content (kg VOC/1 of solids), as received, that when divided by the lowest transfer efficiency at which the coating is applied for each coating operation results in a value equal to or less than 1.5 kilograms per liter for prime and color coats and equal to or less than 2.3 kilograms per liter for texture and touch-up coats, the affected facility is in compliance provided that no VOCs are added to the coatings during distribution or application.

iv. If an affected facility uses add-on controls to control VOC emissions and if the owner or operator can demonstrate to the administrative authority* that the volume-weighted av-

erage mass of VOCs emitted to the atmosphere during each nominal one-month period per unit volume of coating solids applied (N) is within each of the applicable limits expressed in Subsection D.2.b.ii of this Section because of this equipment, the affected facility is in compliance. In such cases, compliance will be determined by the administrative authority* on a case-by-case basis.

E. Reporting and Recordkeeping Requirements

1. The reporting requirements of LAC 33:III.3115.A apply only to the initial performance test. Each owner or operator subject to the provisions of this Section shall include the following data in the report of the initial performance test required under LAC 33:III.3115.A:

a. except as provided for in Subsection E.1.b of this Section, the volume-weighted average mass of VOCs emitted to the atmosphere per volume of applied coating solids (N) for the initial nominal one-month period for each coating operation from each affected facility; and

b. for each affected facility where compliance is determined under the provisions of Subsection D.2.b.iii of this Section, a list of the coatings used during the initial nominal one-month period, the VOC content of each coating calculated from data determined using Reference Method 24 (LAC 33:III.6083), and the lowest transfer efficiency at which each coating is applied during the initial nominal one-month period.

2. Following the initial report, each owner or operator shall do the following.

a. Report the volume-weighted average mass of VOCs per unit volume of coating solids applied for each coating operation for each affected facility during each nominal one-month period in which the facility is not in compliance with the applicable emission limits specified in Subsection C of this Section. Reports of noncompliance shall be submitted on a quarterly basis, occurring every three months following the initial report.

b. Submit statements that each affected facility has been in compliance with the applicable emission limits specified in Subsection C of this Section during each nominal one-month period. Statements of compliance shall be submitted on a semiannual basis.

3. These reports shall be postmarked not later than 10 days after the end of the periods specified in Subsection E.2.a and b of this Section.

4. Each owner or operator subject to the provisions of this Section shall maintain at the source, for at least two years, records of all data and calculations used to determine monthly VOC emissions from each coating operation for each affected facility as specified in LAC 33:III.3113.D.

5. Reporting and recordkeeping requirements for facilities using add-on controls will be determined by the administrative authority on a case-by-case basis.

F. Test Methods and Procedures

1. The reference methods in the Division's Source Test Manual (LAC 33:III.Chapters 60, 61, 63) except as provided under LAC 33:III.3115.B shall be used to determine compliance with Subsection C of this Section as follows:

a. Method 24 (LAC 33:III.6083) for determination of VOC content of each coating, as received; and

b. for Method 24 (LAC 33:III.6083), the sample must be at least a one-liter sample in a one-liter container.

2. Other methods may be used to determine the VOC content of each coating if approved by the administrative authority before testing.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18: (January 1992).

J. Terry Ryder
Assistant Secretary

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Radiation Protection Regulations, LAC 33:XV. Chapters 1, 3, 7, and 20 (NE02).

This proposed revision of the Louisiana Radiation Regulations will establish additional regulations including financial assurance requirements for mitigation, remediation, and decommissioning for licensees possessing specified quantities of radioisotopes with half-lives greater than 120 days. Also, additional regulations will be established for well-logging operations, medical misadministration rules and other regulations for the medical use of radionuclides, and related definitions. The revision is necessary to maintain compatibility with the U. S. Nuclear Regulatory Commission (NRC).

Copies of this rule are available at the Office of the State Register, 1051 Riverside North, Capitol Annex Building, 5th Floor, Room 512, Baton Rouge, LA 70802.

J. Terry Ryder
Assistance Secretary

RULE

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

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2411-2422, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Louisiana Solid Waste Regulations, LAC 33:Part VII, Log number SW03.

This amendment revises the Solid Waste Regulations which pertain to the Solid Waste Recycling and Reduction Law (Act 185, 1989). Entire sections have been written, definitions added, programs developed to administer the recycling and clean up of abandoned waste tire sites. A program has also been organized to monitor the recycling of waste tires.

Title 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste
Subpart 2. Recycling

Chapter 103. Recycling and Waste Reduction Rules

§10301. Purpose

It is declared to be the purpose of these rules and regulations to:

A. Establish a goal of reducing the amount of solid waste being disposed of in the state by 25 percent by December 31, 1992.

B. Encourage the development of solid waste reduction and recycling as a management procedure at all solid waste facilities in the state and to promote recovery of recyclable materials so as to preserve and enhance the quality of air, water, and land resources of or in Louisiana.

C. Encourage the development of the state's recycling industry, thereby conserving the natural resources and energy through reuse.

D. Encourage state agencies to procure recycled goods to the extent possible.

E. Encourage political subdivisions in the state to explore and develop the recycling programs most advantageous to each.

F. Develop and implement effective public education programs concerning recycling in order to encourage recycling so as to preserve and enhance the natural beauty of the land, water, and air of or in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10303. Definitions

The following words, terms, and phrases, when used in conjunction with LAC 33:VII.Subpart 1, shall have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning:

Elements of Nature—acts of God.

Label—a molded imprint or raised symbol on or near the bottom of a plastic product.

Plastic Bottle—a plastic container, that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap, or other closure, and has a capacity of 16 fluid ounces or more, but less than five gallons.

Premises—a unit of land and/or buildings, or any portion thereof. Property shall be considered as contiguous parcels even if separated by a utility easement or road or railroad right of way.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure of facilities used or intended to be used to process, collect or transport waste tires in accordance with the Act, these regulations, and specified terms and conditions.

Permittee/Permit Holder—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

Process—a method or technique, including recycling, recovering, compacting (but not including compacting which occurs solely within a transportation vehicle), composting, incinerating, shredding, baling, recovering resources, pyrolyzing, or any other method or technique designed to change the physical, chemical, or biological character or composition of a solid waste to render it safer for transport; or a method to reduce it in volume; or a method which renders it amenable for recovery, storage, reshipment or resale.

Recovered Materials—those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream, for sale, use, or reuse, by separation, collection, or processing.

Recyclable Materials—those materials which are capable of being recycled and which would otherwise be processed or disposed of as nonhazardous solid waste.

Recycled Content—materials that contain a percentage of post-consumer materials as determined by the department in the products or materials to be procured, including but not limited to paper, aluminum, glass, and composted materials.

Recycling—any process by which nonhazardous solid waste or material which would otherwise become solid waste, is collected, separated, or processed and reused or returned to use in the form of raw materials or products.

Rigid Plastic Container—any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin, and having a relatively inflexible finite shape or form with a capacity of eight ounces or more but less than five gallons.

White Goods—inoperative and/or discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial appliances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10305. Exemptions

The following wastes or activities are exempt from the requirements of this Chapter:

A. recovered materials, if a majority of the recovered materials at a facility is demonstrated to be sold, used, or reused in a manner satisfactory to the department within 12 months of their receipt by the facility;

B. recovered materials, or the products or by-products of operations that process recovered materials, which are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water surface so that such products or by-products or any constituent thereof may enter lands or be emitted into the air or discharged into the waters, including groundwater, or otherwise enter the environment or pose a threat to public health and safety or the environment;

C. recovered materials which are hazardous wastes and have not been recovered from solid waste and which are defined as hazardous wastes under applicable state or federal regulations; and

D. those wastes exempt under the Louisiana Solid Waste Management and Resource Recovery Law and the Louisiana Solid Waste Rules and Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10307. Development of Local Plan

A. Each parish, in conjunction with its municipalities, shall submit to the department for its approval a plan for at-

taining a 25 percent waste reduction goal by December 31, 1992.

1. All parishes and major municipalities shall have implementation plans on file. Such a plan shall, at a minimum contain the following:

a. proposed educational programs;

b. recycling programs;

c. incentives to promote recycling and waste reduction;

d. review of recycling products, markets and backup markets;

e. review of existing recycling programs (public and private); and

f. contingency measures, if necessary, in case of an emergency;

g. a mathematical formula on how the parish, in conjunction with its municipalities intends to calculate the percentage of waste reduction. Two acceptable methods are as follows:

METHOD ONE

$$\% \text{ reducton} = \frac{A}{A + B} \times 100$$

A = waste reduction total (tons) (Waste Reduction Total must be determined as provided in LAC 33:VII.10307.B.1.a.).

B = total waste landfilled (tons)

METHOD TWO

$$Z + \frac{X}{Y} \times 100$$

% Reduction = 100% – Z

X = current year tonnage landfilled.

Y = tonnage landfilled in base year (1989 or another year approved by the administrative authority).

NOTE: If only volume measurements are available the conversion factor to tons for household garbage is 3.5 cubic yards of household garbage = one ton.

2. Such plan shall be reviewed at least annually by the local governing institution that prepared the plan and the department with the following conditions:

a. revisions or modifications must be submitted to the department when applicable according to these regulations; and

b. an annual progress report must be submitted to the department no later than December 31 of each year after submittal and approval.

3. Adequate public notice shall be given by the local governing bodies of the preparation, development, implementation, and annual review of such plan in combination with the following:

a. each parish shall provide written notice of the following to all municipalities within the parish which are not directly involved with plan development:

i. when the recycling program development begins;

ii. periodic progress reports concerning the preparation of the recycling program;

iii. the availability of the plan for review and comment;

iv. the development of any revisions or modifications to the plan; and

v. the availability of the modified plan for review and comment.

b. each parish shall seek the input, during the entire planning process, of the general public and/or persons engaged in recycling, waste reduction, and solid waste collection and disposal;

c. each parish in conjunction with its municipalities is encouraged to inform residents of the full cost of solid waste management.

4. Local governments are encouraged to give consideration to and involve, for-profit and non-profit, organizations engaged in collection, marketing, and disposition of recyclable materials in the implementation of such plans.

B. Measurement and Reporting

The following credits may be earned in attaining the 25 percent reduction goal:

a. waste reduction totals resulting from composting, recycling or resource recovery shall be based on the actual volume or tonnage percentage of waste reduction, provided that at least three recycling approaches are utilized (including, but not limited to waste tire recycling, composting, curbside recycling, buyback centers, dropoff centers, etc.);

b. no credit may be earned from volume or weight reductions due to the incineration process, unless this process is part of a waste-to-energy program and does not have a negative impact on the recycling program;

c. separation of recyclables before incineration may receive credit for volume or weight reduction toward the 25 percent reduction goal.

C. The cost of solid waste management within the service area of the parish and for each municipality within the plan (if solid waste is managed by the municipality) must be determined on an annual basis. The cost determination should include:

1. facilities cost (construction, land, etc.);
2. collection;
3. transportation;
4. disposal;
5. recycling;
6. maintenance and monitoring.

The cost information should be made available to residents within the parish or municipal service area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10309. List of Recyclers and Recyclable Materials

The department shall compile, publish, and provide upon request a list of recyclers including their name, address and the materials recycled. The list shall be reviewed and updated annually as needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10311. Recycling Fees

Effective January 1, 1993, a tipping fee of $.20 per ton of waste entering a solid waste management facility is hereby established to support local recycling programs. The administrative authority may waive the fee for any solid waste management facility that reaches the 25 percent waste reduction goal and meets the criteria established herein. In the event that it is determined by the administrative authority that a parish and its major municipalities have failed to achieve the 25 percent waste reduction goal by January 1, 1993, a tip-

ping fee may be imposed by the secretary. This fee shall not exceed $.20 per ton and shall apply to all solid waste generated within the parish that is not recycled or reused. The proceeds of the fee shall be used to administer the provisions of Act 185 of 1989. The portion of the proceeds which is allocated to the department shall be applied to actual costs of any program developed pursuant to Act 185 of 1989. The remainder of any fee shall be reimbursed to the payee for use in recycling programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

Chapter 105. Waste Tires

§10501. Purpose

The legislature finds that removal of certain materials from the solid waste stream going into landfills currently being utilized for the disposal of solid waste in Louisiana is necessary to protect our environment, prevent nuisances, protect the public health, safety, and welfare, extend the usable life of the facilities, aid in the conservation and recovery of valuable resources, and to conserve energy by efficient reuse of these products, thereby benefiting all citizens of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10503. Administration

This program shall be administered by the Solid Waste Division, Office of Solid and Hazardous Waste, Department of Environmental Quality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10505. Definitions

The following words, terms and phrases, when used in conjunction with the Solid Waste Rules and Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Disease Vector—animals such as rodents, fleas, flies, mosquitoes and other arthropods that are capable of transmitting diseases to humans.

Disease Vector Control Plan—a plan developed to control the growth and spread of disease vectors. Such a plan shall conform to the appropriate guidelines and standards established by the Louisiana Department of Agriculture and the Department of Health and Hospitals.

End User—the purchaser of a new tire who will use the tire on a motor vehicle.

Facility—any land and appurtenances thereto used for storage, processing, recycling, and/or disposal of solid waste or tire material, but possibly consisting of one or more units. (Any earthen ditches leading to or from a facility that receive waste are considered part of the facility to which they connect, except ditches which are lined with materials which are capable of preventing groundwater contamination.)

Fleet Operator—any person, business or governmental entity that owns or operates fleets of trucks, taxicabs, buses, farm implements or other vehicles and who purchased tires to service all, or a portion, of his own tire needs and who in the course of his normal business activities generates 100 or more waste tires per calendar year.

Motor Vehicle—an automobile, motorcycle, truck, trailer, semi-trailer, truck-tractor and semi-trailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power; but the term does not include bicycles and mopeds.

Premises—a unit of land and/or buildings, or any portion thereof. Property shall be considered as contiguous parcels even if separated by a utility easement or road or railroad right of way.

Permit—a written authorization issued by the administrative authority to a person for the construction, installation, modification, operation, closure of facilities used or intended to be used to process, collect or transport waste tires in accordance with the Act, these regulations, and specified terms and conditions.

Permittee/Permit Holder—a person who is issued a permit and is responsible for meeting all conditions of the permit and these regulations at a facility.

Promiscuous Tire Pile—a pile of 10 or more waste tires that has resulted from disposal activities by anyone other than the landowner and whose operations are not permitted by the administrative authority.

Storage of Tire Material—the accumulation of tire material for recycling or reuse.

Tire—a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

Tire Dealer—any person, business or firm that engages in the sale of new tires for use on motor vehicles.

Tire Disposal—to deposit and/or bury waste tires whole, sliced, cut, chipped, shredded, etc., as a method of ultimate disposal in a permitted solid waste disposal facility.

Tire Material—waste tires after processing such as: chipped, shredded, cut or sliced tires, crumb rubber, steel cord, fiberglass, oil, carbon black, etc.

Tire Monofill Facility—a facility for the storage of tire material.

Tire Re-treading Facility—a facility that converts waste tires into useable tires.

Unauthorized Waste Tire Pile—a pile of 10 or more waste tires whose storage and/or disposal is not authorized by the administrative authority.

Waste Tire—a whole tire that is no longer suitable for its original purpose because of wear, damage, or defect.

Waste Tire Collection Center—a site where waste tires are collected from the public prior to being offered for recycling.

Waste Tire Collection Facility—a location where waste tires can be stored or collected for transport to a recycling facility or processor. A tire dealer shall not be considered a collection facility unless the dealer accepts tires from other dealers or municipalities and exceeds 1,500 tires collected on site at any one time.

Waste Tire Processing Facility—a site where equipment is used to cut, burn, or otherwise alter whole waste tires so that they are no longer whole.

Waste Tire Transporter—a person or company that transports waste tires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10507. Exemptions

The persons, facilities, or facility operations listed below are exempt from the requirements of these regulations. Any persons, facilities, or other entities subject to these regulations may petition the department for exemption from these regulations or certain portions thereof in accordance with LAC 33:VII.Subpart 1.

A. The collection or transportation of tires from individual residences as part of a collection contract is exempt if the tires are not commingled with other solid waste and delivered to a processing facility. The contract must be in place on the effective date of this Chapter in order to comply with this exemption. This exemption is in effect for the term of said contract and any extension authorized under this contract.

B. Vehicles that transport waste tires need not be permitted as a "waste tire transporter" if:

1. the vehicle contains five or less waste tires; or

2. the department determines that the person engaged in the transportation did not know such waste tire had been mixed or commingled with the solid waste, or determines that it is not economically and environmentally feasible to remove and recover the tires; or

3. the vehicle originated outside the boundaries of Louisiana and is destined for a point also outside the boundaries of Louisiana, provided no tires are loaded or unloaded within the boundaries of Louisiana.

C. Requirements for Other Exemptions:

1. written justification must be provided to the administrative authority for the type of exemption sought;

2. it must be demonstrated that because of the uniqueness of the particular situation, compliance with the identified provision would tend to impose an unreasonable economic or technical burden on the person or on the public safety; and

3. it must be demonstrated that the proposed exemption to the regulated activity will not adversely affect the environment, public health, safety, or welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10509. Prohibitions

A. After January 1, 1991, no person may knowingly or intentionally dispose of waste tires in a landfill within the boundaries of Louisiana.

B. After January 1, 1990, no person may store waste tires unless they are:

1. collected and stored at a tire dealer for the purpose of collecting a quantity large enough to economically transport to a collection or processing facility. If the quantity stored exceeds 1,500 tires the dealer must obtain a permit as a collection facility; or

2. collected and stored at a permitted waste tire collection facility; or

3. collected and stored at a permitted waste tire processing facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10511. Permit System

A. Permit Requirements

1. Scope. Persons or businesses that collect, process, and/or transport waste tires must secure a permit and are subject to the requirements detailed in these regulations.

2. Types of Permits

a. Temporary Permit - a permit that allows continued operation of an existing facility or transporter, in accordance with an approved interim operational plan, but does not allow the expansion or modification of the facility. The administrative authority may issue a temporary permit in the following situations:

i. to allow operations to continue at an existing facility while a standard permit application is being processed;

ii. to allow operations to continue at an existing facility while a closure plan is being processed or while a facility is being closed in accordance with a closure plan; or

iii. to allow an applicant for a permit for a proposed facility to begin construction and/or operation on a limited basis for good cause shown.

b. Standard Permit - a permit issued by the administrative authority to applicants of processing and/or collection facilities that have successfully completed the standard permit application process.

3. General Permit Provisions

a. Permit Duration - a standard permit issued under this Section shall be valid for five years (subject to renewal) from the date of issuance unless revoked. Applications for renewals shall be submitted at least 180 days prior to the date of expiration.

b. Transfer of Permit - permits and decals issued pursuant to these regulations are assigned only to the permittee and cannot be transferred, sublet, leased, or assigned, without prior approval of the administrative authority.

c. Changes - it shall be the duty of each permittee to notify the department in writing within five working days of any significant change regarding the information in the permit.

B. Suspension or Revocation of Permit

The administrative authority may review a permit at any time. After review of a permit, the administrative authority may suspend or revoke a permit, in whole or in part, for cause in accordance with the law.

C. Permit Application Process

1. Notification Form. Collectors, processors, and/or transporters of waste tires shall, within 30 days after promulgation of these regulations, notify the department in writing of such activity. The notification form shall be obtained from the department. (See Appendix, Forms 1 and 2)

2. Permit Application. Within 180 days after receipt of the notification form, the department will perform an on-site investigation to verify facility classification. Based on the findings of the classification inspection, the facility will be issued either a temporary permit or an order to close. The issuance of a temporary permit requires that the facility complete and submit to the department a formal permit application accompanied by the appropriate application fee. The temporary permit will allow the facility to operate under an approved operational plan until the standard permit applica-

tion is either approved or denied. In no case will a temporary permit be issued for more than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10513. Standard Permit Application Form

A. Application for Permit

1. Each applicant requesting a permit pursuant to these regulations shall complete the standard application form designed for that classification, including, but not limited to the following information (See Appendix):

a. the name of such person, business or organization;

b. the legal and business address and telephone number of the permittee and contact person associated with the permittee;

c. the location of the business by section, township and range;

d. a description of each vehicle which will be used by such applicant for the transport of waste tires including the make, model, year, license number and name of registered owner if different from that of the transporter.

2. Certification. The applicant must provide and sign legal certification that all information provided in the application is true and correct with the possibilities of punishment under the law for false information.

B. Supplementary Information for Collectors and Processors

The following information is required for all facilities that collect and/or process waste tires, and includes, but is not limited to, the following:

1. the type of processing the facility will perform, e.g., cutting, slicing, shredding, crumb rubber, pyrolysis, etc.;

2. the end use of the processed tire material, e.g., rubber, crumb rubber, steel, fiberglass, oil, carbon black, etc., will be used for tire derived fuel (TDF) to manufacture asphalt rubber, rubber mats, bumper guards etc.;

3. an operational plan outlining facility access, security, operational contingency planning, safety, and disease vector control;

4. a closure plan outlining the closure of all waste tire storage areas, and the method of disposal of any waste tires or tire material on site;

5. evidence of general liability insurance in the amount of $1,000,000, proof of which must be submitted with the appropriate section of the standard application form. Evidence of this coverage shall be updated annually and provided to the department; and

6. a bond, bank letter of credit, or money security made payable upon default to the department into the Environmental Trust Fund. The bond amount will be an amount equal to $1 per whole tire and/or $1 per cubic yard of processed tire material on the site at the license renewal date. To ensure sufficient assets to cover facility closure, the minimum amount of the bond, bank letter of credit or money security shall be $5,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10515. Waste Tire Fee System

Each licensed applicant shall submit a non-refundable application fee in the amount specified, according to the categories listed below. The appropriate fee must accompany the permit application.

A. Permit Application Fee

1. Transporter - $100;

2. Collection Facility - $500;

3. Processing Facility - $500;

4. Modifications - $50.

B. Annual Monitor and Maintenance Fee

1. Transporters - $25/vehicle/year

2. Collection Facility - $100/year

3. Processing Facility - $100/year

C. Waste Tire Fee

A waste tire fee is hereby imposed on each new tire sold in Louisiana, to be collected by the tire dealer at the time of retail sale from the end user. The fee shall be $2 per tire.

1. The disposition of the fee shall be as follows:

a. one dollar shall be retained by the tire dealer to cover the costs of collection, transportation, processing and disposition of waste tires.

b. the remaining $1 will be forwarded to the department by the tire dealer and will be deposited in the Environmental Trust Fund. The money shall be designated for the administration of the waste tire recycling regulations and the cleanup of promiscuous tire piles.

2. Nothing herein shall prohibit a tire dealer from including disposal costs within the retail sale price of any tire.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10517. Waste Tire Facility Standards

The following operational standards will govern all facilities that collect and/or process waste tires.

A. General Requirements

1. all waste tire facilities must have controlled access to the site through the use of fences, gates, or other means approved by the administrative authority.

2. waste tires may be stored at a collection or processing facility using outside or inside storage or a combination of both methods.

3. all facilities shall control disease vectors through the use of a disease vector control plan and shall keep the site free of excessive grass, underbrush, or other harborage.

B. Outdoor Storage Requirements

1. waste tire pile dimensions should not exceed: height - 10 feet, width - 20 feet, length - 50 feet.

2. fire lanes

a. waste tire or tire material piles shall be separated by a minimum of 50 feet wide lanes to allow access by emergency vehicles and equipment.

b. access lanes must be all-weather roads.

c. all facilities shall provide for on site fire control. Arrangements must also be made for site fire protection through immediate notification of local fire protection authorities and documentation of these arrangements must be included in the operational plan.

3. all storage sites shall maintain proper drainage away from the storage site.

C. Special Storage Requirements for Collecting/Processing Facilities

1. a waste tire facility may not accept any waste tires for collection or processing if it has reached its designated storage limit. The storage limit for a waste tire processing facility is 365 times the daily processing capacity of the processing facility. Records of a facility's storage limit and the amount of tires in storage shall be maintained as documentation of the relevant amounts of waste tires and available to the department upon request.

2. the storage limit for a waste tire collection facility shall be as specified in the standard permit. At a minimum, 75 percent of the waste tires received annually by a waste tire collecting facility must be removed from the facility during that year's operation.

3. if a facility fails to meet the requirements of LAC 33:VII.10517.C.2 for 24 months, it will be subject to the provisions of LAC 33:VII.10517.D.

D. Long Term Storage/Monofills

1. tire processors may, if markets for their tire materials are not available, store waste tire material in chipped, shredded or other non-tire forms for extended periods but not to exceed five years.

2. tire processors may store waste tire material in above-ground piles or in monofills if:

a. the processor has no immediate market for the tire material but has reasonable belief that such markets will develop;

b. the processor shall provide the following:

i. a plan to control run-on/run-off of storm water;

ii. a disease vector control program, and;

iii. an emergency plan to prevent and/or respond to any fire or other event which may release pollutants or contaminants from such site.

c. the ultimate goal of the processor is to reclaim the tire material at a future date for processing of the rubber, steel and fiberglass, or of the original components of the tires;

d. the processor submits, within 24 months of the initiating of the storage, an assessment plan to address the need for additional operational conditions, including but not limited to the potential need for the permittee to provide a storage area liner system and leachate collection system;

e. the processor shows financial responsibility as defined in LAC 33:VII.10513.B for ultimate cleanup, disposal and closing of the site, should no market develop within five years of receipt of the documented volume of material.

3. Permitted solid waste landfills may accept chipped, shredded, cut or sliced tire material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10519. Manifest and Reporting Requirements

A. A manifest showing the number of tires, the name of the tire dealer, transporter, transporter number and the name and number of the collection or processing facility shall accompany each shipment of waste tires. The manifest shall be a four-part form in numerical sequence to be signed by all parties with designated copies for each tire dealer transporter and facility (See Appendix, Form 3).

B. The tire dealer shall retain the tire dealer's copy of the manifest; the transporter shall retain the transporter's copy of the manifest; the collecting or processing facility shall retain the facility's copy of the manifest and return the fourth copy of the manifest to the originating tire dealer within 30 days of the facility's receipt of the waste tires.

C. No person or facility may accept waste tires for processing without a properly completed manifest as specified herein.

D. If waste tires are transported from a collection center, a new manifest must be originated until the waste tires reach a processing facility. In this event the processing facility shall return the fourth copy of the manifest to the collection facility.

E. Manifests shall be maintained by all parties for three years.

F. The manifest shall be maintained for audit by all parties who are required to sign it and shall be available for review during the regular business hours of the persons required to keep such records.

G. No manifest is required for waste tires being transported to a tire retreading facility. Waste tire shipment of this nature must be accompanied by an invoice used in the normal course of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10521. Specific Requirements and Responsibilities

A. Responsibilities of Tire Dealers

1. all tire dealers must notify the department of their existence within 90 days of promulgation of these regulations and obtain a DEQ Identification Number. Notification shall be on forms provided by the department (See Appendix, Form 4).

2. tire dealers must accept one waste tire for every new tire sold, from the purchaser of the new tire, at the time of purchase, unless the purchaser requests permission to retain the waste tire.

3. each tire dealer doing business in the state of Louisiana shall be responsible for the collection of the waste tire fee. Each tire dealer shall retain $1 of the $2 fee to assist in defraying costs of disposition. The tire dealer shall remit $1 of the fee to the department on a quarterly basis (See Appendix, Form 5).

4. tire dealers must provide notification to the public sector via signs, made available by the department, indicating that:

a. "It is unlawful for any person to dispose, discard, burn or otherwise release waste tires to the environment in a manner in contravention to the Louisiana Solid Waste Regulations. A fine of up to $25,000 per day per violation shall be imposed on any company, or individual, who violates these rules and regulations;"

b. "All Louisiana tire dealers are required to collect a waste tire cleanup and recycling fee of $2 per tire upon sale of each new tire;"

c. "This fee must be collected whether the purchaser retains the waste tires or leaves the waste tires with the dealer;"

d. "Tire dealers must accept one waste tire for every new tire sold, from the purchaser of the new tire, at the time of purchase, unless the purchaser elects to retain the waste tire."

5. the waste tire fee shall be listed on a separate line

of the retail sales invoice.

6. no tire dealer shall remove or allow to be removed waste tires from his property or business without a completed manifest.

7. tire dealers must provide a cover adequate to exclude water from within the waste tires, when stored outdoors, and provide for rodent control.

B. Responsibilities of Waste Tire Transporters

1. Manifest Requirements

a. no transporter shall receive waste tires without a properly completed and signed waste tire manifest.

b. no transporter shall deliver tires to a collection or processing facility, without also delivering to the operator of the facility, the facility's copy of the completed and signed manifest. The transporter shall obtain the signature of the agent for the collection and/or processing facility on the manifest and shall retain the transporter's copy.

c. the transporter shall retain the transporter copy of the manifest for a period of three years. Transporters shall make these records available to the department upon request.

d. a transporter shall not transport any waste tires without having at all times, in the vehicle transporting such tires, a copy of the manifest for the tires.

e. any waste tires manifested, but not delivered to a collection or processing facility, but delivered instead to a business for resale, must be noted on the manifest by the transporter or tire dealer.

2. Interstate Transport Manifest Requirements. Any person who engages in the transportation of waste tires from Louisiana to other states or countries or from other states to Louisiana, or persons who collect or transport waste tires in Louisiana but have their place of business in another state, shall comply with all of the requirements for transporters contained in LAC 33:VII.Chapter 7 of the Solid Waste Rules and Regulations.

3. Approved Disposition of Waste Tires. Transporters of waste tires shall deliver waste tires in Louisiana only to a permitted collection or processing facility unless the waste tires are delivered out of state.

4. Waste Tire Transporter Vehicle Standards. The type and size of vehicles shall comply with the regulations and licensing of the Department of Transportation and Development and with applicable local ordinances governing weight and size for the streets that must be traveled.

5. All transporters are subject to inspections by the department.

6. In addition to the state transporter's permit, the department shall issue to the transporter one decal for each truck, to be attached to the driver's door of the truck.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10523. Responsibilities of Property Owners of Promiscuous Waste Tire Pile

A. Notification

The property owner of any promiscuous waste tire piles shall within 90 days after the effective date of these regulations provide the department with information concerning the location and the quantity of waste tires accumulated on the property. The form for reporting this information shall be secured from the department (See Appendix, Form 6).

B. Cleanup of Promiscuous Waste Tire Pile

Property owners of promiscuous waste tire piles are responsible for the cleanup of all waste tires located on their property.

C. Disease Vector Control for Promiscuous Waste Tire Piles

Property owners of promiscuous waste tire piles are responsible for providing disease vector control measures adequate to protect the health and safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10525. Reports

A. All tire dealers shall submit, on forms available from the department, a quarterly report containing the number of new tires sold and remittance of $1 per tire sold. Reports are due within 30 days of the end of each quarter (See Appendix, Form 5).

B. All collection and processing facilities shall submit an annual report on forms available from the department. The annual reports are due within 30 days of the end of each calendar year (See Appendix, Form 7).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

§10527. Enforcement

A. Failure to Comply

Failure of any person to comply with any of the provisions of these regulations, or of the terms and conditions of any permit granted, or order issued, pursuant to law and hereunder, constitutes a violation of the Act.

B. Investigations: Purposes, Notice

Investigations shall be undertaken to determine whether a violation has occurred or is about to occur, the scope and nature of the violation, and the identity of the persons or parties involved. Upon written request, the results of an investigation shall be given to any complainant who provided the information prompting the investigation, and, if advisable, to the person(s) under investigation, if the identity of such person(s) is known.

C. Development of Facts, Reports

The administrative authority may conduct inquiries and develop facts through staff investigatory procedures, or formal investigations, and may conduct inspections and examinations of facilities and records. The administrative authority may hold public hearings and/or issue subpoenas pursuant to R.S. 30:2025.I, requiring attendance of witnesses and production of documents, or take such other action as may be necessary and authorized by the Act or rules promulgated by the administrative authority. At the conclusion of the investigation, all facts and information that have been developed concerning any cited violation shall be compiled by the staff of the department. A report of the investigation shall be presented to the administrative authority for use in possible enforcement proceedings.

D. Enforcement Action

When the administrative authority determines that a violation of the Act or these regulations, or the terms and

conditions of any permit issued hereunder, has occurred or is about to occur, he or she shall initiate one or more of the actions set forth in R.S. 30:2025, or as otherwise provided by appropriate rules or statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2411-2422.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 18: (January 1992).

APPENDIX B

FORM 1

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF SOLID AND HAZARDOUS WASTE
POST OFFICE BOX 82178
BATON ROUGE, LOUISIANA 70884-2178

TRANSPORTER NOTIFICATION

Name of Person: _____

Name of Business/Organization: _____

Mailing Address: _____ Zip Code: _____
(include name of city and parish)

Street Address: _____ Zip Code: _____
(include name of city and parish)

Telephone Number: _____

Name, address, phone # of contact person in case of emergency, if different from owner:

_____

Federal ID#: _____
(or Social Security number)

Permit #: _____
(To be assigned by the Department)

Please list all vehicles that will be used to transport tires, including make, model, year license number, and name of registered owner if different from transporter.

	Make	Model	Year	License Number	Registered Owner
1.					
2.					

CERTIFICATION:

I HAVE PERSONALLY EXAMINED THE SOLID WASTE RECYCLING AND REDUCTION LAW, ACT 185 OF 1989 AND I AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THE ATTACHED DOCUMENT, AND I HEREBY CERTIFY UNDER PENALTY OF LAW THAT THIS INFORMATION IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE, I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

Signature of Transporter: _____

FORM 2

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF SOLID AND HAZARDOUS WASTE
POST OFFICE BOX 82178
BATON ROUGE, LOUISIANA 70884-2178

APPLICATION TO COLLECT AND/OR PROCESS WASTE TIRES

1. Name of Person/Business: _____

2. Mailing Address: _____

3. City: _____ Parish: _____ Zip Code: _____

4. Location of Tire Facility: _____

5. Telephone: _____ *Federal ID#: _____

6. Facility owner must provide with this application, a copy of written notification to the appropriate local governing authority, stating that the site is being used as a tire collection/processing center.

7. Facility owner must provide with this application written documentation from property owner granting approval for use of property as a tire collection/processing center.

8. General Information:
R. S. 30:2418.F. An owner or operator of a waste tire collection center may store waste tires for up to one year provided that such storage is solely for the purpose of accumulation of such quantities of waste tires as are necessary to facilitate proper recovery, processing, or disposal.

   A. Date tire accumulation began: _____

   B. Number of tires currently on site: _____

   C. Annual storage capacity of facility: _____

   D. Number of tires removed for processing/recycling since March 1, 1990: _____

NOTE: Semi-annual reports are required indicating the number of tires received and removed for processing or recycling. Records supporting these figures shall be maintained on-site or by person stated above. (July - December), (January - June).

9. OPERATIONAL PLAN - including but not limited to the following (see LAC 33:VII.10513 regarding supplemental information):

   A. Site security (to deny unauthorized access or disposal): _____

   B. Grounds maintenance (control of grass and brush accumulation): _____

   C. Disease vector control plan: _____

   D. Tire storage method to exclude water:
   _____Inside storage _____Exterior storage with cover
   _____Other (explain) _____

   E. Dimensions of waste tires or waste tire material pile(s):
   Length_____ft. Width_____ft. Height_____ft.
   (See LAC 33:VII.10517)

   F. Width of fire lanes between waste tire or waste tire material piles: _____ft.
   (See LAC 33:VII,10517)

   G. Name, address and phone number of contact person in case of an emergency, if different from the owner: _____

10. CERTIFICATION:
I HAVE PERSONALLY EXAMINED THE SOLID WASTE RECYCLING AND REDUCTION LAW, ACT 185 OF 1989 AND I AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THE ATTACHED DOCUMENT, AND I HEREBY CERTIFY UNDER PENALTY OF LAW THAT THIS INFORMATION IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

Signature of Facility Owner_____

*If you do not have a Federal ID#, please substitute your Social Security number.

FORM 3

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF SOLID AND HAZARDOUS WASTE
POST OFFICE BOX 82178
BATON ROUGE, LOUISIANA 70884-2178

WASTE TIRES MANIFEST

1. CERTIFICATION: I (WE) HAVE PERSONALLY EXAMINED AND I AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THIS DOCUMENT, AND I (WE) HEREBY CERTIFY UNDER THE PENALTY OF LAW THAT THIS INFORMATION IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY (OUR) KNOWLEDGE. I (WE) ARE AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

2. Name of Tire Dealer or Other Tire Sender:_____

   A. Address:_____ Zip Code:_____

   B. Phone No .: (____) _____DEQ ID#:_____

   C. Number* of tires in this shipment:_____

   D. Signature of responsible person at sender:

   _____Date:_____

3. Transporter Name:_____

   A. Address:_____ Zip Code:_____

   B. Phone No.: (____) _____Permit #:_____

   C. Signature of Transporter/Driver:

   _____Date:_____

4. Name of Tire Collection/Processing Facility:_____

   A. Address:_____ Zip Code:_____ B. Phone No.: (____)

   Permit #:_____

   C. Number* of Tires Received:_____

   D. Signature of Responsible Person at Receiver:

_____Date:_____

Part 1. Completed original copy (returned to tire dealer/sender within 30 days of date of delivery of tires to collection/processing facility).

Part 2. Recycling, collecting, processing or disposal facility copy.

Part 3. Transporter copy.

Part 4. Tire dealer/sender copy.

NOTE: All copies of this manifest must be retained for DEQ inspection for three years. Illegal disposition of tires can result in a penalty of up to $25,000 per violation per day. All shipments of six or more waste tires must be accompanied by a completed manifest.

*Note: To record the number of tires by weight, use the estimated averages found in Table I in Appendix.

FORM 4

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF SOLID AND HAZARDOUS WASTE
POST OFFICE BOX 82178
BATON ROUGE, LOUISIANA 70884-2178

TIRE DEALER NOTIFICATION FORM

Name of Business:
_____

Mailing Address: _____ Zip Code:
_____

Street Address:
_____

Telephone Number:
_____

Federal ID#:
_____

DEQ ID#:
_____
(To be assigned by the Department)

FORM 5

LOUISIANA DEPARTMENT OF ENVIRONMENT QUALITY
FISCAL SERVICES DIVISION
POST OFFICE BOX 82231
BATON ROUGE, LOUISIANA 70884-2231

QUARTERLY WASTE TIRE FEE RETURN REPORT
for quarter ended _____
(date,month,year)

Business Name:
_____

Mailing Address: _____ Zip Code:
_____

Street Address: _____ Zip Code:
_____

Federal ID#: _____DEQ ID#:
_____

FEE RETURN

A. Beginning new tire inventory
_____

B. Plus purchases or other new tires acquired during the quarter
_____

C. Total new tires available for sale during quarter (C = A + B)
_____

D. Minus ending new tire inventory
_____

E. Sales of new tires during quarter
_____
(E = C - D)

FEE DUE TO DEQ
_____
(Remit payment with this report)

NOTE: ALL TIRE TRANSACTIONS MUST BE DOCUMENTED BY INVOICES BILLINGS, AND/OR SHIPPING MANIFESTS, WHICH MUST BE RETAINED FOR DEQ INSPECTION FOR THREE YEARS. ILLEGAL DISPOSITION OF TIRES CAN RESULT IN A PENALTY OF UP TO $25,000 PER VIOLATION PER DAY.

CERTIFICATION: I HAVE PERSONALLY EXAMINED AND I AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THIS DOCUMENT, AND I HEREBY CERTIFY UNDER PENALTY OF LAW THAT THIS INFORMATION IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT.

Authorized Signature _____

FORM 6

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF SOLID AND HAZARDOUS WASTE
POST OFFICE BOX 82178
BATON ROUGE, LOUISIANA 70884-2178

NOTIFICATION FORM FOR PROMISCUOUS WASTE TIRE PILE

Name of Property Owner: _____

Mailing Address: _____ Zip Code: _____

City: _____ Parish: _____

Telephone Number: _____

Location of Promiscuous Tire Pile: _____
(including section, township, and range)

_____

Number of Tires Currently on Site: _____

FORM 7
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF SOLID AND HAZARDOUS WASTE
POST OFFICE BOX 82178
BATON ROUGE, LOUISIANA 70884-2178

WASTE TIRE COLLECTION AND PROCESSING FACILITIES
ANNUAL REPORT

A. Beginning Waste Tire Inventory _____

B. Plus Waste Tires Received during the Year _____

C. Total Waste Tires _____
(C = A + B)

D. Disposition of Waste Tires

1. Disposition to permitted transporter/collectors/processors _____

2. Tires processed on-site _____

3. Waste tires disposed of at other facilities not noted above _____

E. Total Disposition of Waste Tires _____
(E = D.1 +D.2 +D.3)

F. Waste Tire Inventory _____
(F = C - E)

NOTE: AT A MINIMUM, 75 PERCENT OF THE WASTE TIRES RECEIVED ANNUALLY BY A WASTE TIRE COLLECTION FACILITY MUST BE REMOVED FROM THE FACILITY DURING THAT YEAR'S OPERATION.

NOTE: ALL TIRE RECEIPTS AND DISPOSITIONS MUST BE DOCUMENTED BY INVOICES, BILLINGS, AND/OR SHIPPING MANIFESTS, WHICH MUST BE RETAINED FOR DEQ INSPECTION FOR 3 YEARS. ILLEGAL DISPOSITION OF TIRES CAN RESULT IN A PENALTY OF UP TO $25,000 PER VIOLATION PER DAY.

CERTIFICATION: I HAVE PERSONALLY EXAMINED AND I AM FAMILIAR WITH THE INFORMATION SUBMITTED IN THIS DOCUMENT, AND I HEREBY CERTIFY UNDER PENALTY OF LAW THAT THIS INFORMATION IS TRUE, ACCURATE, AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FIND AND IMPRISONMENT.

Authorized Signature _____

J. Terry Ryder
Secretary

RULE

Office of the Governor

Commission on Law Enforcement and Administration of Criminal Justice

Sentencing Commission

In accordance with R.S. 49:950 et seq. of the Administrative Procedure Act, the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Sentencing Commission has adopted the Louisiana Sentencing Guidelines LAC 22:IX Chapters 1-4.

Copies of the tables in Chapter 4 determining appropriate sentences under the guidelines can be obtained through the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70802.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part IX. Sentencing Commission
Subpart 1. Felony Sentencing Guidelines

The legislature enacted by Acts 1991, Nos. 22, 25, 38, and 138 shall take effect on January 1, 1992 or 30 days after the effective date of the sentencing guidelines, whichever is later. It is in the interest of the state of Louisiana that such implementing legislation take effect on January 1, 1992 and that the sentencing guidelines take effect on January 1, 1992. As currently promulgated, the sentencing guidelines will take effect on January 20, 1992 with the publication of the *Louisiana Register* on that date. Thus, in order to have the guidelines and implementing legislation take effect on January 1, 1992, the emergency rulemaking is necessary.

Therefore, the Louisiana Sentencing Commission has adopted an emergency rule that the guidelines shall take effect on January 1, 1992 and shall remain in effect until final rules are published in the January 20, 1992 issue of the *Louisiana Register*. Copies of the tables in Chapter 4 determining appropriate sentences under the guidelines can be obtained through the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70802.

Chapter 1. Purpose and Principles
§101. Purpose

A. The purpose of the Louisiana Sentencing Guidelines, hereinafter referred to as "guidelines," is to recommend a uniform sanctioning policy which is consistent, proportional, and fair for use by the Louisiana judiciary in felony cases in which the sentencing court must determine the sentence to be imposed.

B. The guidelines do not apply to capital cases, cases punishable by a mandatory sentence of life imprisonment, or misdemeanor cases.

C. The guidelines do not apply to convictions for felony offenses for which no crime seriousness level has been determined. In such cases, the court may be guided by the guideline range for a ranked offense which the court determines to be analogous to the offense of conviction.

D. The guidelines are intended to ensure certainty, uniformity, consistency and proportionality of punishment, fairness to victims, and the protection of society.

E. The guidelines are intended to provide rational and consistent criteria for imposing criminal sanctions in a uniform and proportionate manner.

1. Uniformity in sentencing requires that offenders who are similar with respect to relevant sentencing criteria should receive similar sanctions, and that offenders who are substantially different with respect to relevant sentencing criteria should receive different sanctions.

2. Proportionality in sentencing requires that the severity of the punishment be proportional to the seriousness of the offense of conviction and the severity of the offender's prior criminal history.

F. The guidelines are intended to assist the court in stating for the record the considerations taken into account and the factual basis for imposing sentences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§103. Sentencing Principles

A. Sentences should be based primarily on the offense of conviction and the offender's prior criminal history. Therefore, those two factors determine the designated sentence range established under the guidelines.

B. The determination of the seriousness of the offense of conviction is based on the elements of the offense of conviction.

C. The severity of sanctions should increase or decrease in proportion to the seriousness of the offense of conviction and the severity of the offender's prior criminal history.

D. The guidelines are based on the typical case and the designated sentence ranges provided in the sentencing guidelines grid should be appropriate for cases in which aggravating and mitigating circumstances are not present.

E. While commitment to a term of imprisonment with or without hard labor is the most severe non-capital sanction that can follow conviction for a felony offense, there are other significant sanctions available to the sentencing court which lawfully can be imposed in conjunction with, or independent of, a term of imprisonment. These criminal penalties include home incarceration, periodic incarceration, community service, and various conditions of supervised probation.

F. Sentences shall not be determined on the basis of the race, gender, social, or economic status of the offender. The exercise of constitutional rights by the defendant during the adjudication process is not a justification for the imposition of a more severe sentence than is warranted by the offense of conviction, criminal history of the offender, and any relevant mitigating and aggravating factors. However, acceptance of responsibility and cooperative with law enforcement, which may involve relinquishment of rights, may be considered as mitigating factors justifying imposition of a more lenient sentence.

G. Sanctions imposed shall not be excessive.

H. The sentencing judge should have broad discretion in the determination and imposition of appropriate sentencing alternatives in particular cases.

I. Reasons for the imposition of a particular sentence shall be set forth for the record to facilitate appellate review.

J. The guidelines are advisory to the sentencing judge. No sentence shall be declared unlawful, inadequate, or excessive solely due to the failure of the judge to impose a sentence in conformity with the designated sentence range provided by the guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

Chapter 2. Determining Sentences Under the Sentencing Guidelines

§201. Sentencing Guidelines Grid

A. The basis for the sentence for any offender convicted of a felony is determined by locating the designated sentence range in the appropriate cell of the sentencing guidelines grid, hereinafter referred to as the "grid." See Chapter 4, §403.A, "Sentencing Guidelines Grid." The appropriate cell is determined by the crime seriousness level of the offense and the criminal history index of the offender.

B. In imposing a sentence under the guidelines, the court shall state for the record the factors which led the court to determine that the cell in the grid was appropriate. The court may refer to any pre-sentence investigation report or sentencing guidelines report, if available, in stating for the record the factual basis for imposing sentence.

C. If the sentence imposed falls within the range of the appropriate cell of the grid, the sentence is appropriate for purposes of the guidelines and the court is not required to set forth additional factors justifying the selection of the particular sentence.

D. Sentences greater or lesser than a penalty within the designated sentence range should be determined through the procedures for departure. See §209, "Departures from the Designated Sentence Range".

E. Use of mandatory minimum sentences, concurrent or consecutive sentences, and other sentencing considerations should be determined through the procedures set forth in the guidelines or as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§203. Crime Seriousness Level

A. The crime seriousness level is determined by the offense of conviction.

B. Offenses are ranked according to the following:

1. the interest protected, and

2. the type of level of harm or threat of harm proscribed by statute.

C. The placement of an offense in a particular seriousness level is determined by the typical case for each offense.

D. Offenses listed within each level of seriousness are deemed to be generally equivalent in seriousness.

E. The seriousness level for the felony offenses for which a crime seriousness level has been determined are set forth by level in the Crime Seriousness Master Ranking List. See Chapter 4, §401.A, Crime Seriousness Master Ranking List. Felony offenses are classified into five categories of offenses which are subdivided into 10 levels of seriousness ranging from high, Level 0 to low, Level 9, listed alphabetically within each level.

1. The five categories of felony offenses are Categories I, II, III, IV, and V. Category I offenses are levels 0 and 1; Category II offenses are levels 2 and 3; Category III offenses are levels 4 and 5; Category IV offenses are levels 6 and 7;

and Category V offenses are levels 8 and 9.

2. All offenses with a mandatory life sentence are in Category I at level 0.

3. The crime seriousness level for Criminal Conspiracy (R.S. 14:26) is one level below the crime seriousness level of the completed offense contemplated by the conspiracy, unless the completed offense is level 9.

4. The crime seriousness level for Attempt (R.S. 14:27) is one level below the crime seriousness level of the completed offense attempted by the offender, unless the completed offense is level 9.

5. The crime seriousness level for Attempt (R.S. 14:27) or Conspiracy (R.S. 14:26) to commit an offense ranked a level 9 is also ranked at level 9.

6. The crime seriousness level for Inciting a Felony (R.S. 14:28) is level 7 regardless of the level of the incited felony.

7. The crime seriousness level for Accessory after the Fact (R.S. 14:25) is level 6 regardless of the level of the felony to which the offender is an accessory.

F. For the convenience of the courts, three additional ranking lists are provided which list the offenses by:

1. Louisiana Revised Statute Number, and

2. Offense Name, alphabetically, and

3. Crime Family, as designated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§205. Criminal History Index Classification System

A. Criminal History Index Classification System

The Criminal History Index Classification System, hereinafter referred to as the *criminal history index,* is the method of evaluating an offender's criminal history in a uniform and consistent manner. The criminal history index is used to reflect increased levels of culpability for offenders who have previously been convicted of offenses or adjudicated delinquent. The index is based on computational rules which result in the assignment of varying points for certain prior convictions or adjudications.

B. Definitions

1. *Crime family* means offenses which have been designated by the commission to be included within the same *crime family* based on similar interests protected and type of harm proscribed by the offenses. See Chapter 4, §402.D, Crime Family Table. Attempt, Criminal Conspiracy, Inciting a Felony, and Accessory After the Fact are considered to be in the same *crime family* as the completed offense or the offense to which the offender was an accessory. If a felony offense has not been designated to be included within a *crime family*, but the court determines that the offense is analogous to the offenses in a particular *crime family,* the court may treat that offense as included within the *crime family* for purposes of imposing sentence in a particular case. In such case, the court shall state for the record its reasons for finding that the offense was analogous to those of a particular *crime family.*

2. *Crime-free time* means a period of time during which the offender was not in a *custody status,* as defined below, and during which the offender has not committed an offense which subsequently results in a conviction.

3. *Custody status* means any form of criminal justice supervision resulting from a conviction or an adjudication of delinquency including post conviction release or bail, confinement, probation, or parole.

4. *Felony adjudication* means any adjudication for delinquency by a court exercising juvenile jurisdiction, for an offense which, if committed by an adult, would be a felony, as defined herein, except those which were expunged or subject to expungement at the time of the commission of the offense serving as the basis for the current conviction.

5. *Felony conviction*, for purposes of the Guidelines, means a conviction for an offense punishable by a sentence of death or imprisonment, with or without hard labor, in excess of one year at the time of conviction, under the laws of this state, any other state, the United States, or any foreign government or country.

6. *Misdemeanor adjudication* means any adjudication for delinquency by a court exercising juvenile jurisdiction for an offense which, if committed by an adult, would be a misdemeanor, as defined herein, except those which were expunged or subject to expungement at the time of the commission of the offense serving as the basis for the current conviction.

7. *Misdemeanor conviction,* for purposes of the guidelines, means any other conviction which is counted in the computation of criminal history score.

8. *Prior conviction* or *prior adjudication*, for purposes of the guidelines, means a plea of guilty or nolo contendere, a verdict of guilty, a judgment of guilt, or an adjudication of delinquency occurring before the conviction for the offense which serves as the basis for the current sentencing.

C. Criminal History Index Factors

1. The criminal history index is based on points derived from the following factors:

a. prior felony convictions;

b. prior applicable misdemeanor convictions;

c. prior adjudications of delinquency;

d. crime-free time;

e. custody status at the time of the commission of the offense serving as the basis for the current conviction.

2. The Criminal History Index is composed of seven classes ranging from Class A, most serious criminal history, to Class G, least serious criminal history.

3. Method of Calculation

a. Seriousness score: Score all prior felony convictions and felony adjudications of delinquency by the number of points ascribed to the seriousness level of the offense of conviction as set forth in Chapter 4, §402.A and C, Tables 2.A and C. If the prior felony conviction is based on an unranked offense, i.e., not ranked on the crime seriousness ranking tables, the court may assign a seriousness score of one point to the conviction. If the court believes that a seriousness score of one point significantly underrepresents the seriousness of the prior conviction, the judge may use the seriousness score of an analogous offense, provided the court states for the record why the unranked offense is analogous to the ranked offense which serves as the basis for the score.

b. Prior misdemeanors: Add one-fourth (.25) point, not to exceed a total of one point, for each of the following misdemeanor convictions or adjudications:

i. Any offense in Louisiana Revised Statutes Title 14 or the Uniform Controlled Dangerous Substances Law of Louisiana Revised Statutes Title 40 or any local ordinance which is substantially similar to an offense in Title 14 or the Uniform Controlled Dangerous Substances Law of Title 40.

ii. Any traffic offense in Louisiana Revised Statutes Title 32 or local traffic ordinance substantially similar to any Title 32 traffic offense if the current offense of conviction involves the operation of a motor vehicle.

c. Prior similar criminal behavior: Add one-half (.5) point for each prior felony conviction or adjudication if the prior offense of conviction or adjudication is in the same "crime family" as the current offense of conviction. See Chapter 4, §402.D, Crime Family Table.

d. Crime-free time: Multiply the point value of each prior conviction or adjudication of any offense, except a level 0 offense, by the appropriate factor as set forth in Chapter 4, §402.E, Table 2.E, if over five years of "crime-free time" has elapsed prior to the commission of the current offense of conviction. The "point value" of the prior conviction or adjudication to be multiplied by the appropriate "crime-free time" factor shall include the criminal history score of the prior conviction or adjudication as determined by §402.A, B, and C and any additional points added for "prior similar criminal behavior."

e. Offenses committed during custody status: Add one point if the current felony offense was committed while the offender was in a "custody status."

f. Limitation on prior misdemeanor convictions: Points added to an offender's criminal history index score for misdemeanor convictions or adjudications shall not increase the offender's criminal history index more than one level.

g. Multiple convictions on same day: Count only the most serious conviction or adjudication if more than one conviction or adjudication occurred on the same day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§207. Designated Sentence Ranges

A. The Appropriate Grid Cell

1. The offense of conviction determines the appropriate seriousness level on the vertical axis of the grid. See Sentencing Guidelines Grid.

2. The offender's criminal history index score determines the appropriate criminal history class on the horizontal axis of the grid.

3. The designated sentence range is found in the grid cell at the intersection of the row defined by the crime seriousness level and the column defined by the criminal history index.

B. Incarceration Sanction Zone Sentences

1. The Incarceration Sanction Zone is the area above the reversed dotted line. See Sentencing Guidelines Grid. The court should impose a sentence consisting exclusively of incarceration for typical cases located in this zone.

2. Each cell in this zone contains a designated sentence range of incarceration in months.

3. Designated sentences of incarceration permit the court to determine the manner in which the sentence is to be served, i.e., with or without hard labor, as provided by law.

C. Discretionary Sanction Zone Sentences

1. The *Discretionary Sanction Zone* is the area between the reversed dotted line and the heavy dashed line. See Sentencing Guidelines Grid. Each cell in this zone contains a designated range of sanction units for use when an intermediate sanction is imposed and a designated sentence range in months for use when a sentence of incarceration is given.

2. For typical cases in this zone, the court should consider whether the offender should be sentenced to incarceration, to an intermediate sanction, or to a combination of the two, depending upon the circumstances of the particular case. If the court imposes an intermediate sanction or sanctions, the resulting intermediate sanction, or combination of intermediate sanctions, should be within the designated range of sanction units.

3. Incarceration sanctions which should be considered for cases in this zone include, but are not limited to, shock incarceration, work release, work-day release, incarceration as a condition of probation, and periodic incarceration, such as confinement at regular intervals (e.g. weekends).

D. Intermediate Sanction Zone

1. The *Intermediate Sanction Zone* is the area below the heavy dashed line. See Sentencing Guidelines Grid. For typical cases in this zone, the court should impose a sentence consisting of an intermediate sanction or sanctions unless a mandatory sentence of incarceration is required by law.

a. Intermediate sanctions include any sanction the court may impose other than incarceration in a jail or prison unless the term is served as periodic incarceration.

b. Intermediate sanctions include, but are not limited to, probation, intensive supervision, periodic incarceration, home incarceration, community service, inpatient treatment, outpatient treatment, economic sanctions, and denial of privilege, such as driver's license.

2. Each cell in this zone contains a designated range of sanction units which may be fashioned by the judge into a specific sentence with a combination of sanctions by utilizing the Intermediate Sanction Exchange Table. See Chapter 4, §403.C, Using the Intermediate Sanction Exchange Table.

3. The duration of intermediate sanction sentences will vary according to the sanction or sanctions selected by the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§209. Departures From the Designated Sentence Range

A. Procedure for Departure

1. The designated sentence range provided in the grid is appropriate for a typical case; that is, an offense committed without aggravating or mitigating circumstances.

2. A departure from the designated sentence range occurs whenever the court imposes a sentence which is different from the types of sentences or outside the designated sentence range provided in the zone and cell appropriate to the case.

3. The court should depart from the designated sentence range when sufficient aggravating or mitigating circumstances are present significantly to differentiate the case from the typical case arising under the offense of conviction.

4. When departing from the designated sentence range, the court shall:

a. pronounce a sentence which is proportional to the seriousness of the offense and the offender's criminal history; and

b. state for the record the reasons for the departure

which shall specify the mitigating or aggravating circumstances, and the factual basis therefor.

5. Reasons for departure from the designated sentence range are appropriate only when such reasons are based on mitigating or aggravating circumstances.

B. *Aggravating circumstance* means a factor which is present to a significant degree which makes the present case more serious than the typical case arising under the offense of conviction. Factors which constitute essential elements of the offense of conviction or separate offense(s) for which defendant was convicted and sentenced shall not be considered aggravating circumstances. The following factors constitute aggravating circumstances:

1. The offender's conduct during the commission of the offense manifested deliberate cruelty to the victim.

2. The offender knew or should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability or ill health.

3. The offender offered or has been offered or has given or received anything of value for the commission of the offense.

4. The offender used his or her position or status to facilitate the commission of the offense.

5. The offender knowingly created a risk of death or great bodily harm to more than one person.

6. The offender used threats of or actual violence in the commission of the offense.

7. Subsequent to the offense, the offender used or caused others to use violence, force, or threats with the intent to influence the institution, conduct, or outcome of the criminal proceedings.

8. The offender committed the offense in order to facilitate or conceal the commission of another offense.

9. The offense resulted in a significant permanent injury or significant economic loss to the victim or his family.

10. The offender used a dangerous weapon in the commission of the offense.

11. The offense involved multiple victims or incidents for which separate sentences have not been imposed.

12. The offender was persistently involved in similar offenses not already considered as criminal history or as part of a multiple offender adjudication.

13. The offender was a leader or his violation was in concert with one or more other persons with respect to whom the offender occupied a position of organizer, a supervisory position, or any other position of management.

14. The offense was a major economic offense.

15. The offense was a controlled dangerous substance offense and the offender obtained substantial income or resources from ongoing drug activities.

16. The offense was a controlled dangerous substance offense in which the offender involved juveniles in the trafficking or distribution of drugs.

17. The offender committed the offense in furtherance of a terrorist action.

18. The offender's record of convictions for prior criminal conduct exceeds the threshold for Class A by at least two points on the criminal history index.

19. Any other relevant aggravating circumstances which distinguish the case from the typical case of the offense of conviction.

C. *Mitigating circumstance* means a factor which is present to a significant degree which lessens the seriousness of the offense below the level of the typical case arising under the offense of conviction. Factors which constitute a legal defense shall not be considered mitigating circumstances. The following factors constitute mitigating circumstances:

1. At the time of offense, to a degree, the victim was the initiator, willing participant, aggressor, provoker of the incident, or enticed the offender.

2. The offender committed the crime under some degree of duress, coercion, threat, or compulsion.

3. At the time of the offense, the capacity of the offender to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was somewhat impaired.

4. The offense was committed while the offender was under the influence or under domination of another person.

5. The offense was committed while the offender was under the influence of significant mental or emotional disturbance.

6. The offense was committed under circumstances which the offender reasonably believed to provide for a moral justification or extenuation for his conduct.

7. The offender committed the offense without significant premeditation.

8. The offender's judgment was impaired because of his extreme youth or advanced age.

9. The defendant manifested caution or sincere concern for the safety or well-being of the victim.

10. The offender played a minor or passive role in the crime.

11. The offender compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

12. The offender cooperated with law enforcement authorities with respect to the current crime of conviction or any other criminal conduct by the offender or other person.

13. The offender was motivated by a desire to provide basic necessities of life for his family or others.

14. The offense involved a small quantity of a controlled dangerous substance and the offense was committed exclusively to support his personal drug habit.

15. The offender pled guilty or otherwise accepted responsibility for the offense and expressed genuine remorse.

16. The offender took steps which rehabilitated him or were reasonably related to his rehabilitation.

17. Any other relevant mitigating circumstances which distinguish the case from the typical case of the offense of conviction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§211. Mandatory Minimum Sentences

If an offender has been convicted of an offense for which a mandatory term of imprisonment must be imposed which exceeds the maximum duration provided in the designated sentence range for that offense, the court should impose the minimum sentence required by law to be served in the manner required by law unless aggravating circumstances justify imposition of a more severe sentence.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§213. Designated Sentence Durations That Exceed the Statutory Maximum Sentence

If the minimum sentence duration provided by the sentence range in the appropriate cell of the grid exceeds the statutory maximum sentence for the offense of conviction, the court should impose the statutory maximum sentence unless mitigating circumstances justify imposition of a more lenient sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§215. Concurrent and Consecutive Sentences

A. Factors to be Considered

1. The sentencing court may impose either concurrent or consecutive sentences in cases where a defendant has been convicted of two or more offenses. In determining whether to impose either a concurrent or a consecutive sentence, the court should consider aggravating and mitigating circumstances which may be present.

2. If two or more criminal acts are based on the same act or transaction, or constitute parts of a common scheme or plan, concurrent sentences should be imposed.

3. In all other cases, concurrent or consecutive sentences should be supported by appropriate factors. If a consecutive sentence is imposed, the court shall state for the record the factors considered and the reasons for imposition of a consecutive sentence.

4. If statutory law requires that a sentence be imposed either concurrently or consecutively, the sentences must be imposed in the manner prescribed by law.

B. Procedure for Imposing Concurrent Sentence. If the court finds that concurrent sentences should be imposed, the following procedures apply:

1. Concurrent Sentences of Incarceration

a. A sentence is imposed for each offense of conviction.

b. The sentence with the longest term of incarceration shall set the term of incarceration.

c. Only one term of post-prison supervision should be ordered. The length of the post-prison term should be determined by the longest term of incarceration imposed.

2. Concurrent Intermediate Sanction Sentences

a. A sentence is imposed for each offense of conviction.

b. The sentence with the largest number of sanction units should determine the number of sanction units available for the concurrent sentences.

C. Procedure for Imposing Consecutive Sentences. If the court finds that a consecutive sentence should be imposed, the following procedures apply to determine the base sentence range and the recommended sentence.

1. The base sentence range is established by determining, from the appropriate cell in the grid, the designated sentence range for the most serious offense of conviction.

2. After the base sentence range for the most serious offense has been determined, the remaining offenses provide the additional penalty to be imposed. No more than 50 percent of the minimum of the grid range for each of the subsequent offenses for which the offender is being sentenced should be added.

3. If the offense from which the base sentence range is determined requires imposition of a term of incarceration at hard labor, the entire term of imprisonment imposed should be at hard labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

Chapter 3. General Sentencing Policy

§301. Plea Agreements Involving Stipulated Sentences

A. Stipulating the Grid Cell

1. As part of a plea agreement under the guidelines, the parties may stipulate a cell within the grid regardless of whether the cell corresponds to the defendant's criminal history index and the crime seriousness level of the offense(s) to which the defendant will plead.

2. In such cases, the court may:

a. accept the stipulated cell and impose a sentence within the range provided, or

b. reject the plea agreement.

B. Stipulating a Specific Sentence

1. As part of a plea agreement under the guidelines, the parties may stipulate a specific sentence regardless of whether the sentence is within the range provided in the cell which corresponds to the defendant's criminal history index and the crime seriousness level of the offense(s) to which the defendant will plead.

2. If stipulation is made to a specific sentence, the court may:

a. accept the plea agreement and impose the stipulated sentence, or

b. reject the plea agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§303. Revocation of Probation

A. Violation of Condition of Probation

1. If an offender is brought before the court for the violation of a condition of probation which does not involve commission and conviction of a subsequent offense and the court does not consider revocation appropriate, the court may impose up to eight additional sanction units in consideration of the violation, e.g., up to two weeks in jail or 160 hours of community service, in lieu of revocation.

2. If the offender is brought before the court a second time for the violation of such a condition of probation, and the court does not consider revocation appropriate, the court may impose up to an additional 16 sanction units in lieu of revocation.

3. If the offender is brought before the court a third time for the violation of such a condition of probation, the court should consider revocation in lieu of an additional 16 sanction units.

B. Violation of Probation for Commission or Conviction of Misdemeanor. If an offender on probation is brought before the court for the commissioner or conviction of a misdemeanor, the court may impose up to eight additional sanction

units or revoke the probation.

C. Violation of Probation for Commission or Conviction of Felony. If an offender on probation is brought before the court for the commission or conviction of a felony, the court may impose up to 16 additional sanction units or revoke the probation.

D. Imposition of Sentence Following Revocation. If the imposition of sentence was suspended, and the offender's probation is revoked, the court should follow the guidelines in imposing sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§305. Credit for Time Served

A. If a sentence of incarceration is imposed and executed, an offender should be given credit for time served under the following conditions prior to the imposition or execution of sentence:

1. time spent in actual custody in connection with the offense of conviction.

2. time spent in actual custody in a public or private mental hospital or other similar facility if ordered by the court in connection with the offense of conviction.

3. time spent in actual custody as a condition of probation if that probation is subsequently revoked.

B. *Actual custody* as used in this Section is limited to time spent in confinement in prisons, jails, parish prisons, prison farms, workhouses, work-release centers, regional correctional facilities, public or private mental hospitals, or other similar facilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§307. Juveniles Tried as Adults

If a person under 17 years of age is prosecuted as an adult in a court exercising criminal jurisdiction, the guidelines should be applied in the same manner as though the person were an adult.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§309. Habitual Offender Sentencing

A. The guidelines increase the designated sentence range for an offender on the basis of the offender's prior criminal convictions, custody status, and the "crime family" of the current and prior convictions. In those cases in which the district attorney determines that the offender's pattern of past criminal conduct has been significantly more extensive than the typical offender with the same criminal history index, the district attorney may institute proceedings under R.S. 15:529.1, the Habitual Offender Law.

B. Any person who has been convicted of a felony and adjudged an habitual offender shall receive an enhanced penalty as provided by R.S. 15:529.1, the Habitual Offender Law. In such cases, the enhanced sentence may exceed the maximum sentence range specified in the appropriate cell in the sentencing grid. In such cases, the court should impose the minimum sentence provided by law unless aggravating circumstances justify imposition of a more severe sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§311. Parole, Good Time, Commutation of Sentence, Pardon

A. The sentence, derived from the seriousness of the offense committed, the criminal history index of the offender, and any aggravating or mitigating circumstances, should reflect the maximum length of time an offender should remain in actual custody or under supervision, and the manner in which a sentence should be served.

B. Eligibility for good time and parole should not affect the determination of the sentence to be imposed by the sentencing court.

C. Parole eligibility is determined by law. An offender is eligible for parole consideration only after having served the statutorily required portion of his designated sentence.

D. The decision to grant or deny parole should be based primarily on the offender's record of behavior while in custody following conviction, such as the person's conduct while incarcerated, including participation in educational or job training programs.

E. The guidelines are not intended to affect the granting of pardons or commuting of sentences by the governor upon recommendations of the Board of Pardons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

Chapter 4. Louisiana Sentencing Guidelines Tables

§401. Criminal Seriousness Tables

A. Crime Seriousness Master Ranking List

B. Felonies Ranked Numerically by Statute Number

C. Ranked Felonies in Alphabetical Order

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§402. Criminal History Tables

A. Criminal History Index Score for Prior Felony Convictions

B. Criminal History Index Score for Prior Misdemeanor Convictions

C. Criminal History Index Score for Prior Adjudications of Delinquency

D. Crime Family Table

E. Crime-Free Time Score

F. Criminal History Index Classification System

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§403. Tables for Determining Designated Sentence

A. Sentencing Guidelines Grid

B. Diagram of Sanction Zones in The Designated Sentence Range Grid

C. Intermediate Sanction Exchange Rate Table
D. Using the Intermediate Sanction Exchange Rate Table
E. Intermediate Sanction Definitions

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

§404. Sentencing Guideline Report

A. Form
B. Instructions for Use

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:321-329.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 18: (January 1992).

Michael A. Ranatza
Executive Director

RULE

Office of the Governor
Division of Administration
Medical Review Panel

In accordance with R.S. 40:1299.39, et seq., notice is hereby given that effective February 1, 1992, all medical malpractice claims filed for review by a medical review panel against the state, state agencies and all other state health care providers covered under R.S. 40:1299.39, et seq., are to be submitted to the commissioner of administration, state of Louisiana, as follows: Commissioner of Administration, Medical Review Panel, State of Louisiana, Box 44336, Baton Rouge, LA 70804-4336.

Medical Review Panel correspondence should no longer be sent to Post Office Box 94095.

Seth E. Keener, Jr.
State Risk Director

RULE

Department of Health and Hospitals
Board of Examiners of Professional Counselors

The Louisiana Licensed Professional Counselors Board of Examiners, under authority of the Louisiana Mental Health Counselor Licensing Act, R. S 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has adopted the following rule amendments governing the practice of mental health counseling in the state of Louisiana.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LX. Professional Counselors, Board of Examiners
Chapter 5. License and Practice of Counseling
§503. Definitions

For purposes of this rule, the following definitions will apply.

A. *Board* - means the Louisiana Licensed Professional Counselors Board of Examiners

B. *Licensed professional counselor* - means any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

C. *Mental health counseling services* - means those acts and behaviors coming within the "practice of mental health counseling" as defined in R.S. 37:1103. However, nothing in these rules shall be construed to authorize any person licensed hereunder to administer or interpret psychological tests or engage in the practice of psychology in accordance with the provisions of R.S. 37:2352(5).

D. *Practice of mental health counseling* - means rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but or not limited to:

1. *Mental health counseling* - which means assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

2. *Consulting* - which means interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

3. *Referral activities* - which means the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

4. *Research activities* - which means reporting, designing, conducting, or consulting on research in counseling with human subjects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 16:302 (April 1990), LR 18: (January 1992).

Chapter 9. Fees
§901. General

A. The board shall collect the following fees stated in R.S. 37:1106.

1. Application, license and seal $200
2. Written examination. $100
3. Renewal of license $100
4. Reissuance for lost or destroyed license. . . . .$ 50

B. No part of any fee shall be refundable under any conditions other than failure of the board to hold examina-

tions on the date originally announced. All fees for licensing must be paid to the board by certified check or money order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:82 (February 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:545 (July 1989), LR 18: (January 1992).

Chapter 13. License; Adjudication

§1301. Denial, Revocation, or Suspension of License

A. Those who may request an investigation and/or hearing by the board are:

1. any individual, groups, organizations or general public classified as a client of the mental health counseling profession;

2. any licensed professional counselor;

3. any state official or an official of a political subdivision of the state.

B. Grounds for Disciplinary Action. R.S. 37:1110: In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for a hearing after reasonable notice.

1. Necessary Conditions for a Hearing

a. The notice shall include:

i. a statement of the time, place, and nature of the hearing;

ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;

iii. a reference to the particular section of the statutes and rules involved;

iv. a short and plain statement of the matters asserted.

2. If the board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

3. An opportunity shall be afforded all parties to respond and present evidence in all issues and facts involved and arguments on all issues of law and policies involved and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

4. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

5. The record in a case of adjudication shall include all pleadings, motions, intermediate rulings; evidence received or considered or a resumé thereof if not transcribed; a statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose; offers of proof, objections, and rulings thereon; proposed findings and exceptions; any decision, opinion or report by the officer presiding at the hearing.

6. Hearings may be conducted under this procedure from and after the date the procedure is published, per the above germane section.

C. Authority. The board by an affirmative vote of at least four of its seven members shall withhold, deny, revoke or suspend any license issued or applied for in accordance with the provisions of this law. R.S. 37:1110.

1. The grounds upon which a licensed professional counselor may be disciplined are:

a. if the licensed professional counselor has been convicted in a court of competent jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;

b. if the licensed professional counselor has violated the Code of Ethics adopted by the board in March 1988 and entitled Code of Conduct: Louisiana Licensed Professional Counselors Board of Examiners;

c. if the licensed professional counselor is abusing drugs or alcohol to an extent or in a manner dangerous to any other person or the public or to an extent that said use impairs his ability to perform the work of a licensed professional counselor;

d. if the licensed professional counselor has impersonated another person holding a professional mental health counselor license or allowed another person to use his license;

e. if the licensed professional counselor has used fraud or deception in applying for a license or in taking an examination provided for in the law;

f. if the licensed professional counselor has allowed his name or license issued by the board to be used in connection with any person or persons who perform mental health counseling services outside of the area of their training, experience, or competence;

g. if the licensed professional counselor is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof;

h. if the licensed professional counselor has willfully or negligently violated any of the provisions of R.S. 37:1101 to and including 37:1115.

D. Procedures

1. Ground Rules Governing a Hearing Before the Board

a. R.S 37:1110 gives the board the authority, for the purpose of hearings, to subpoena persons, books and papers on its own behalf or on behalf of the applicant or licensee who may appear by counsel or personally on his own behalf. To subpoena includes requirement of the board that the licensee or applicant and legal counsel draw up the subpoena, convey it to the attorney for the board chairperson's signature, that the subpoena be returned to the applicant or licensee for service to be effected by the applicant or licensee.

b. In accordance with R.S. 37:1110 (A) all complaints shall be addressed confidential to the chairperson of the board and shall be sent to the board office. The chairperson of the board shall during an executive session of the board convey the complaint to the board members. The board members by a vote of four of the seven members shall agree to investigate the charges or deny the charges. If a denial, the chairperson of the board shall request counsel to prepare the letters of denial for his signature. If the board agrees to investigate, the board shall prepare a Show Cause Order in which the accused shall be notified in sufficient specificity that he/she is being charged with a breach of the statute and/or ethical code adopted by the board and that he/she must show cause why the board should not discipline the accused. A response is to be made to the chairperson of the board at the board office address. The complaint letter of alleged violations shall not be given initially to the accused licensee. However, sufficient specific allegations shall be conveyed to the accused for his/her response. Once the ac-

cused has answered the complaint, the board shall determine if a hearing is required.

2. Notice of a Hearing. In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for a hearing after reasonable notice.

a. The notice shall include:

i. a statement of the time, place and nature of the hearing;

ii. a statement of the legal authority and jurisdiction under which the hearing is to be held;

iii. a reference to the particular section of the statutes and rules involved;

iv. a short and plain statement of the matters asserted.

b. If the board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

c. Unless precluded by law, informal disposition may be made of any case of adjudication by stipulation, agreed settlement, consent order, or default.

3. The Format for Adversarial Hearings

a. All adversarial hearings shall be held in Baton Rouge, Louisiana. A certified court reporter shall be present only for adversarial hearings. (The fee will be shared evenly by the board and the licensee.)

b. The board chairperson will ask the licensee if he/she wishes a public or private hearing.

The licensee's answer will be made part of the record.

c. Order of the Hearing

i. opening statement by the board's attorney (15 minutes);

ii. opening statement by licensee's attorney (15 minutes);

iii. presentation of evidence by board's attorney;

iv. cross examination by licensee's attorney;

v. presentation of evidence by licensee's attorney;

vi. cross examination by board's attorney;

vii. presentation of evidence in rebuttal by board's attorney;

viii. cross examination by licensee's attorney;

ix. closing argument by board's attorney (15 minutes);

x. closing argument by licensee's attorney (15 minutes);

xi. final argument in rebuttal by board's attorney (5 minutes).

d. Evidence

i. An assistant attorney general shall assist the board's chair and rule on matters of evidence and procedure.

ii. The board will receive and consider all evidence commonly accepted by reasonable prudent persons in the conduct of their affairs. Immaterial and unduly repetitive evidence may be excluded. To expedite the hearing, evidence may be received in written form as long as neither party is prejudiced.

iii. Notice may be taken of judicially cognizable facts, and the board may take notice of generally recognized technical facts within the specialized knowledge of the board.

iv. The rules of privilege recognized in law shall apply.

v. Any objections to evidence or the ruling on admission thereof shall be made part of the record.

e. Deliberation

i. The board will deliberate in closed session absent the board's counsel.

ii. The board will vote on each charge as to whether the charge has been supported by the evidence. The standard will be "preponderance of the evidence."

iii. After considering each charge, the board will vote on a resolution to dismiss the charges, suspend or revoke licensee's license. The vote must be four out of seven for a revocation or suspension.

f. Transcript. The testimony taken at the hearing shall be transcribed and retained with the evidence received, by the board, for a period of at least one year from the hearing.

4. Format for Show Cause Hearings (denial of license, and any other nonadversarial appeals)

a. Notification of the hearing shall be issued 30 days in advance by registered mail or personal service.

b. The applicant may bring written documentation and witnesses (limited to two).

c. The order shall be:

i. opening statement by the applicant (5 minutes);

ii. presentation of written documentation and explanation thereof;

iii. witness testimony (limited 15 minutes each witness) (questions of clarification from members of the board);

iv. presentation by the applicant (20 minutes);

v. questions of clarification by members of the board.

d. The board will then deliberate in closed session.

e. The results of this deliberation will be communicated by registered mail or personal service within 15 days of the hearing.

Note: If applicant chooses to have counsel present, counsel's role shall be advisory only. Counsel may not address the board nor question witnesses. Show Cause Hearings shall not have a certified court reporter and shall not be adversarial in nature.

E. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or personal service setting forth the particular reasons for the proposed action and fixing a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such hearing, the board may subpoena persons, books, and papers, on its own behalf or on the behalf of the applicant or licensee who may appear by counsel or personally on his own behalf.

F. On the basis of any hearing or upon default of applicant licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license, shall become final 30 days after receipt of the copy of determination unless within said period the applicant or licensee appeals the decision as provided by R.S. 49:955-965. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

G. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment fixes a probationary period for applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termina-

tion by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and make public its orders and judgments in such manner and form as it deems proper if such orders and judgments are not consent orders or compromise judgments.

H. The board is authorized to suspend the license of a licensed professional counselor for a period not exceeding two years. At the end of this period, the board shall reevaluate the suspension and may recommend to the chairman the reinstatement or revocation of the license. A person whose license has been revoked may apply for reinstatement after a period of not less than two years from the date such denial or revocation is legally effective. The board may, upon favorable action by a majority of the board members present and voting, recommend such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:84 (February, 1988), amended by the Department of Health and Hospitals, Board of Examiners of Professional Counselors, LR 15:837 (October 1989), LR 17:778 (August 1991), LR 18: (January 1992).

Peter Emerson, Ed.D.
Board Chair

RULE

Department of Health and Hospitals
Office of Management and Finance
Division of Policy and Program Development

The Department of Health and Hospitals, Office of Management and Finance, Division of Policy and Program Development, is adopting the following rule in order to implement Act 394 of the 1991 Regular Session of the Louisiana Legislature.

Title 48
PUBLIC HEALTH - GENERAL
Part I. General Administration
Subpart 9. Primary Health Services

Chapter 151. Grants
§15101. Funding and Eligibility

The Department of Health and Hospitals' Division of Policy and Program Development will accept letters of intent from small rural hospitals, defined herein, on the intended use of up to $75,000 in state funds. Hospitals that are eligible to apply are public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 or less.

The purpose of the grants to small rural hospitals is to strengthen the capability of small rural hospitals to provide high quality emergency health services to indigent and low-income persons in rural areas, and the letter of intent should reflect how the funds requested will further this goal. Grant recipients will be required to maintain an audit trail verifying that any monies received under this grant program were in fact used to enhance emergency room services.

Letters of intent will be processed according to receipt and availability of funds and awards will be issued accordingly.

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

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

J. Christopher Pilley
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program.

Alimony or court-ordered support payment amounts shall not be considered as available income when determining an individual's eligibility for Medicaid of Louisiana. In addition, such court-ordered payments shall not be considered a part of the Medicaid beneficiaries' countable income

Regulatory Exceptions: Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

J. Christopher Pilley
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Louisiana Medicaid Physicians Program.

CONCURRENT CARE ON AN INPATIENT BASIS.

Concurrent care of hospitalized patients under the age of 21 using hospital visit CPT-4 codes and critical care CPT-4 codes will be allowed if such care is reasonable and necessary for the care of the patient. Concurrent care means that the patient's condition requires the services of more than one physician (primary care provider) and that the condition is such that the medical community is of the consensus that it was reasonable for the patient to receive such care and that a peer review will uphold the standard of care.

A decision that inpatient concurrent care is reasonable and necessary requires that the condition and diagnosis of the patient require the attendance of more than just the primary care physician in order to meet the community

standard of treatment. The complexity of care needed is such that the treatment and expertise of a physician specializing in a different area from the primary care physician is required to render treatment.

Inpatient concurrent care will be covered for patients whose conditions require such care, and include:

1. a patient admitted to one of the intensive care units of a hospital; or

2. a patient who is not in a critical care setting, but has a complexity of problems sufficient to be obvious to peer review that such care was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's hospital record must be available for review should such a review be necessary to substantiate the need for concurrent care; or

3. a patient who needs care from two or more providers of the same specialty with different subspecialties (for example, pediatricians will be assigned a new specialty code for claims processing purposes which will reflect their subspecialty). These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Concurrent care of hospitalized patients is not covered under any of the following circumstances:

1. The policy on surgical packages supersedes this policy and surgeons may not bill for follow-up care after surgery since follow-up care is included in the surgical package. If the consulting physician becomes the surgeon he must not bill for either follow-up care or additional consultations, once the decision to perform surgery is made.

2. A consultant may become a concurrent care provider on a case if his continued care of the patient beyond the consultation is necessitated by the condition of the patient and meets the reasonableness test for standard of care, but he will never be able to bill for a consultation once he assumes the surgeon's role.

3. Concurrent care for simple surgical procedures and uncomplicated diagnosis is not covered under this policy.

Billing Requirements and Limitations

1. Only one visit code per day per physician may be billed even though the physician may see the patient more than once daily. The number of units billed per line for this visit should always be one. The level of code billed should reflect all the concurrent care services rendered that day.

2. The concurrent care physician shall bill his daily visit by attaching the modifier 75 to the applicable inpatient code. The primary care provider does not modify the code for his visits which will distinguish him from the concurrent care provider.

3. If the physician group members have and provide different specialty expertise each specialty service is reimbursable.

CONCURRENT CARE ON AN OUTPATIENT BASIS

Concurrent care of outpatients using office visit and other outpatient Medical Services CPT-4 codes (90000 through 90080) will be allowed if such care is reasonable and necessary for the care of the patient. Concurrent care means that the patient's condition requires the services of more than one physician (primary care provider) and that the condition is such that the medical community is of the consensus that it is reasonable for the patient to receive such care and a peer review will uphold the standard of care.

A decision that use of outpatient concurrent care is reasonable and necessary requires that the condition and diagnosis of the patient require attendance by more than just the primary care physician in order to meet the community standard of treatment. This would include cases in which the treatment and expertise of a physician specializing in an area different from that of the primary care physician is required to render treatment.

Outpatient concurrent care will be covered for patients who require such care, and include:

1. A patient who is gravely or terminally ill despite the fact that he or she can be treated on an outpatient basis; or

2. A patient who is not gravely or terminally ill who has a complexity of problems sufficient to be obvious to peer review that such care was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the need for concurrent care; or

3. A patient who needs care from two or more providers of the same specialty with different subspecialties (for example, pediatricians will be assigned a new specialty code for claims processing purposes which will reflect their subspecialty). These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Outpatient concurrent care is not covered by Medicaid under any of the following circumstances:

1. concurrent care is not covered under this policy for simple outpatient surgical procedures and uncomplicated diagnoses; and

2. surgeons who have performed inpatient surgery on a patient may not bill for routine aftercare which is normally covered in the surgery package; and

3. consultants who become a concurrent care provider on a case due to the need of the patient for care beyond the consultation may not bill if they assume the role of surgeon for this patient.

Billing Requirements and Limitations

The concurrent care physician shall bill his daily visit by attaching the modifier 75 to the applicable inpatient code. The primary care provider does not modify the code for his visits which will distinguish him from the concurrent care provider.

CONSULTATIONS AND FOLLOW-UP CONSULTATIONS ON AN INPATIENT BASIS

One initial consultation and two follow-up consultations per recipient per hospitalization per specialty shall be allowed. A consultation is a service performed by a physician of a different specialty from that of the admitting or primary care physician. A consultant renders an opinion and/or gives advice and may also initiate diagnostic or therapeutic services at the request of the primary care physician. The consultant must always document that he has recommended a course of action to the primary care physician and is initiating treatment at his request. A follow-up consultation is performed when a re-evaluation of the patient by the consultant is needed.

The use of consultations and follow-up consultations is reasonable and necessary when the condition and diagnosis of the patient require the consultation with the primary care physician in order to adequately diagnose and treat the

patient in accordance with the accepted community standard of care. This would include cases in which the treatment and expertise of a physician who specializes in an area different from the primary care physician is required to render the appropriate treatment. Request for the consultation will, as always, be made through the primary care physician regardless of whether the referral is generated by the primary care physician or another provider.

Consultations are considered reasonable and necessary for:

1. a gravely or terminally ill patient when justified by diagnosis or medical records documentation.

2. a patient not covered in item 1 who has a complexity of problems sufficient to be obvious to peer review that such consultation was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the need for the consultation(s).

3. consultations by a provider of the same specialty will be allowed when circumstances are of an emergent nature supported by diagnosis, and the primary care physician needs immediate confirmation of a situation. The consulting physician may perform an intermediate consultation with follow-ups if necessary. These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Consultations for hospitalized patients are not covered by Medicaid under any of the following circumstances:

1. Consultations performed on a patient for whom the physician has served as either the primary care physician or the concurrent care provider, or

2. Consultations on patients with simple diagnosis or noncomplex care needs.

Billing Requirements and Limitations:

1. An initial and two follow-up consultations shall be allowed; however, if three or more follow-up consultations are needed, the service may be rendered, but an extension(s) will have to be requested. Reimbursement will be made only after the documentation has been reviewed and the medical necessity of the follow-up approved by medical review.

CONSULTATION AND FOLLOW-UP CONSULTATIONS ON AN OUTPATIENT BASIS

One initial consultation and two follow-up consultations per recipient per specialty shall be allowed. A consultation is a service performed by a physician of a different specialty from that of the primary care physician. A consultant renders an opinion and/or gives advice and may also initiate diagnostic or therapeutic services at the request of the primary care physician. The consultant must always document that he has recommended a course of action to the primary care physician and is initiating treatment at his request. A follow-up consultation is performed when a reevaluation of the patient by the consultant is needed.

The use of consultations and follow-up consultations is reasonable and necessary when the condition and diagnosis of the patient require a consultation with the primary care physician in order to adequately diagnose and treat a patient in accordance with the accepted community standard of care. This would include cases in which the treatment and expertise of a specialist in an area different from the primary care physician is required in order to render the appropriate treatment. Request for the consultation will, as always, be made through the primary care physician regardless of whether the referral is generated by the primary care physician or another provider.

Consultations are considered reasonable and necessary for:

1. a gravely or terminally ill patient when justified by diagnosis or medical records documentation.

2. a patient not covered in item 1 who has a complexity of problems sufficient to be obvious to peer review that such consultation was medically necessary, unduplicative, and met the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the need for the consultation(s).

3. consultations by a provider of the same specialty will be allowed when circumstances are of an emergent nature supported by diagnosis, and the primary care physician needs immediate confirmation of a situation. The consulting physician may perform an intermediate consultation with follow-ups if necessary. These claims will pend for medical review prior to reimbursement. Medical documentation will be requested and reviewed prior to authorization or denial of payment.

Consultations on outpatients are not covered by Medicaid under any of the following circumstances:

1. Consultations performed on a patient for whom the physician has served as either the primary care physician or the concurrent care provider, or

2. Consultations on patients with simple diagnosis or noncomplex care needs.

Billing Requirements and Limitations

1. An initial and two follow-up consultations shall be allowed; however, if a third follow-up consultation (or additional follow-ups) is needed, the service may be rendered, but an extension(s) will have to be requested. Reimbursement will be made only after the documentation has been reviewed and the medical necessity of the follow-up approved by medical review.

2. These consultations including follow-ups billed with CPT-4 procedure codes 90600 through 90654 are limited to an occurrence of once every 180 days.

3. Should the consulting physician subsequently assume responsibility for a portion of the patient's management, he will be rendering concurrent care and shall bill the applicable outpatient services code modified with a -75 for subsequent outpatient visits rendered within the six-month period.

SAME DAY OUTPATIENT VISITS

Two same day outpatient visits per provider rendering care shall be allowed provided both visits are medically necessary. The medical necessity of the second outpatient visit in one day may be justified when the primary care physician needs to check on the progress of a patient treated earlier in the day, when an emergency situation, such as an accident, necessitates a second visit, or when any other occasion arises in which a second visit is necessary to ensure the provision of medically necessary care to the recipient.

This policy is implemented in conjunction with the policy covering concurrent care on an outpatient basis. This policy addresses the care given by a physician who sees a

patient twice in the same day.

A decision that the use of same day outpatient visits is reasonable and necessary when the primary care physician needs to check on the progress of a patient with an unstable condition which was treated earlier in the day, when an emergency situation such as an accident necessitates a second visit or when the severity of the patient's condition warrants a second visit in a day. The necessity of the second office visit must meet the test of reasonableness as established by statistical norms of the provider's peer group. Sufficient documentation in the patient's medical records must be available for review should such a review be necessary to substantiate the need for the second visit.

Same day visits on an outpatient basis are not covered by Medicaid under any of the following circumstances:

1. same day visits on patients with simple diagnosis or noncomplex care needs;

2. routine follow-ups on the same day for a patient whose condition is stable.

Billing Requirements and Limitations

1. The level of visit for the second visit should be billed no higher than a limited office visit CPT-4 code 90050 when seen back in the physician's office.

2. A same day follow-up office visit for fitting of eye glasses is allowable at a minimal office visit, CPT-4 Code 90030.

3. Only one visit per day per recipient shall be allowed for groups whose members are of the same specialty.

4. If the physician group members have and provide different specialty expertise each specialty service is reimbursable.

REGULATORY EXCEPTION

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA, the policy prior to this change shall remain in effect.

J. Christopher Pilley
Secretary

RULE

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

Title 48
PUBLIC HEALTH
Part I. General Administration
Subpart 3. Licensing and Certification

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, Health Standards Section, has adopted LAC 48:I.Chapter 91 regarding revised Minimum Standards for Home Health Agencies. The standards are being revised in order to incorporate the federal requirements relating to home health agencies set forth in the Omnibus Budget Reconciliation Act of 1987.

A copy of these proposed rules may be obtained by contacting the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804, or by contacting the Department of Health and Hospitals, Office of the Secretary, Box 91030, Baton Rouge, LA 70821-9030.

J. Christopher Pilley
Secretary

RULE

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

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, Medicaid of Louisiana, has adopted the following rule regarding Pharmacy Service Reimbursement.

Public Law 101-508, Section 4401(f) (OBRA-90) prohibits states from reducing limits for covered outpatient drugs or dispensing fees for such drugs. The purpose of this provision of law was to reinforce §1902(a)(30) of the Social Security Act which requires states to establish and maintain reasonable reimbursement amounts sufficient to cover the costs which are incurred by efficient and economically operated providers. Historically, Medicaid of Louisiana has assured compliance with these statutory provisions through use of a "lesser of" payment methodology which matched average drug cost plus average pharmacy overhead costs (commonly referred to as dispensing fees) against usual and customary charges to the general public. However, following the Health Care Financing Administration's (HCFA) new requirements which mandate a more accurate measurement of ingredient cost, Medicaid of Louisiana has been required to update its overhead cost allowance on an annual basis to assure compliance with §1902(a)(30).

To streamline reimbursement and assure continued compliance with federal law, Medicaid of Louisiana is amending its reimbursement for overhead costs related to pharmacy services to track the approved prospective methodology utilized for reimbursement of other Medicaid services. Medicaid of Louisiana is also clarifying its overhead cost survey methodology (commonly known as a dispensing fee survey). The basic reimbursement methodology in use will remain unchanged (i.e. drug cost plus overhead cost matched against usual and customary charges to the general public to determine the lower amount for payment). However, the findings of the most recently completed survey of overhead cost will be inflated forward to establish a base overhead rate. This base rate will be updated each fiscal year through application of various indices to cost categories thereby assuring the maximum allowable overhead cost remains reasonable and adequate to cover costs incurred by economically and efficiently operated providers.

To provide uniformity in the new methodology proposed, current requirements for conducting an application of cost survey findings have been incorporated into this rule. Additionally, utilization of the term "dispensing fee" has been discontinued to clarify the reimbursement process as well as long-standing limitations on reimbursement. The term maximum allowable overhead cost reflects both the federally

mandated "lesser of" methodology utilized as well as the type of costs being addressed. It should be noted that there are three basic limitation factors, each with subfactor limitations, utilized for prescription drug reimbursement.

The cost of the drug dispensed is limited based upon various factors which include: federal upper limits on drug cost; state maximum allowable cost limits on drug cost; package size limitations; and adjusted compendia limitations (AWP- 10.5 percent). The maximum allowable overhead cost is limited based upon the average cost incurred by efficiently and economically operated providers determined through cost survey and representative audits inflated forward to assure the maximum allowable remains reasonable and adequate. The usual and customary charge is limited based upon each pharmacy's charges to other payors including the general public. Because the first two limit factors are matched against the usual and customary charge limit, providers are not guaranteed receipt of a set dispensing fee.

In 1989 HCFA required states to reduce published drug pricing data by 10.5 percent for the majority of drugs covered by Medicaid. As a result, the average reimbursement received by providers was reduced by 7.85 percent. To assure continued compliance with §1902(a)(30) of the Social Security Act, Medicaid of Louisiana has been required to adjust the maximum overhead cost to assure total payment to providers remains reasonable and adequate to cover the costs incurred in providing prescription drug services.

Under the proposed methodology the average increase in overhead cost is estimated to be 4.5 percent per year based upon the historic impact of utilization of inflation factors in maintaining prospective payment systems.

Prior to implementation of mandatory drug price limits (AWP- 10.5 percent) by HCFA, the maximum allowable overhead cost (dispensing fee) increased at the rate of 3 percent per year over an 11-year period. The rationale for use of a minimal increase resulted from reliance upon compendia pricing of drug cost which provided an incentive to providers to purchase drugs below the average market price. Under this methodology, reimbursement of overhead costs was dependent upon the efficiency of the provider in purchasing and marketing. Average drug cost has historically increased each year by 11 percent. To project that portion of overhead cost which was reimbursed through drug cost, a percent of annual drug cost increases was allocated to recognize the historic relationship between drug cost and overhead cost. 7.85 percent of the annual drug cost increase (.0785 × .11 = .08635) reflects that portion of drug cost which can reasonably be attributed to annual adjustment of overhead cost. It should be noted that overhead cost is approximately 50 percent of drug cost. To provide a basis for comparing this percentage to overhead cost, the percentage was multiplied by two (.01727, or 1.727 percent) to provide a reasonable estimate of the percentage increase historically applicable to overhead cost. Total overhead cost under the prior methodology was comprised of average increases of 3 percent in dispensing fees and 1.727 percent in drug cost resulting in an average annual increase of 4.727 percent which approximates the methodology proposed for adoption.

RULE

Establishment Of Maximum Allowable Base Overhead Cost

1. Cost Determination

A. Definitions

(1) Adjustment Factors

a. CPI - All Item Factor

b. CPI - Medical Care Factor

c. Wage Factor. Each of the above adjustment factors is computed by dividing the value of the corresponding index for December of the year preceding the overhead year and by the value of the index one year earlier (December of the second preceding year).

D. ROI. One year treasury bill rate applied to a portion of prescription drug cost (17 percent) in recognition of inventories maintained for the purpose of filling prescriptions.

(2) Base Rate. The base rate is the rate calculated in accordance with 2.B., plus any base rate adjustments granted in accordance with 5.B. which are in effect at the time of calculation of new rates or adjustments. The base rate was initially calculated using the 90/91 fee survey findings of average cost for pharmacies representative of the average pharmacy participating in Medicaid reimbursement (15,000 - 50,000 Rx volume). This rate was then inflated forward to December 1990 to establish the first overhead cost maximum.

(3) Base Rate Components. The base rate is the summation of the components shown below. Each component is intended to set the maximum allowable for the costs indicated by its name.

BASE RATE COMPONENT	ADJUSTMENT FACTOR
Pharmacist Salaries	CPI - Medical Care
Other Salaries	WAGE
Other Routine Services	CPI - All Items
Inventory Cost	ROI (1)
Fixed Cost	None (2)
Return On Equity	None (3)

(1) No return on equity allowed.
(2) No inflation allowed.
(3) Adjusted by ROE Factor.

(4) Indices

a. CPI - ALL ITEMS. The Consumer Price Index for all Urban Consumers - Southern Region (All Items line of Table 12) as published by the United States Department of Labor.

b. CPI - MEDICAL CARE. The Consumer Price Index for all Urban Consumers - Southern Region (Medical Care line of Table 12) as published by the United States Department of Labor.

c. WAGE. The average annual wage for production or non-supervisory service workers as furnished by the Dallas Regional Office of the Bureau of Labor Statistics of the U.S. Department of Labor. This figure will be obtained by telephone in May and will be utilized to calculate the adjustment factor based upon the change which has occurred since December of the preceding year.

d. ROI. Interest Rates - Money and Capital Markets - The average percent per year for one year U.S. Treasury bills taken from the Federal Reserve Bulletin report on Money Market Rates (line 17) for the preceding calendar year.

(5) Maximum Allowable Overhead Cost. Overhead cost is determined through use of cost survey results adjusted by various indices to assure recognition of costs which must be incurred by efficiently and economically operated providers. The cost determined is referred to as a maximum allowable to reflect application of the "lesser of" methodology for determining total reimbursement.

(6) Overhead Year. The overhead year is the one-year period from July 1 through June 30 of the next calendar year

during which a particular rate is in effect. It corresponds to a State Fiscal Year.

B. Determination of Limits. Limits on overhead cost are established through the overhead cost survey process which classifies cost in accordance with generally accepted accounting principles and Medicare principles regarding the allowability of cost.

2. Calculation of Maximum Allowable Overhead Cost

The most recent cost survey results will be utilized to establish base cost for: professional salaries; other salaries; other routine costs; and fixed cost. Claims processing data for claims paid in the current overhead period will be utilized to determine average drug cost. Seventeen percent of this cost will be utilized as base prescription inventory. The base prescription inventory amount shall not be added to the overhead cost maximum allowable. Base prescription inventory is recognized as an allowable investment subject to a return on investment only. Calculation of maximum allowable overhead cost per prescription shall be performed as follows:

A. NORC = ORC × CPIF

NORC is the new other routine cost component

ORC is the current (base) routine cost component

CPIAI is the CPI - All Items Economic Adjustment Factor

B. NPS = PS × CPIMC

NPS is the new pharmacist salaries cost component

PS is the current (base) pharmacist salaries cost component

CPIMC is the CPI - Medical Care Economic Adjustment Factor

C. NOS = OS × W

NOS is the new other salaries cost component

OS is the current (base) salaries cost component

W is the Wage Economic Adjustment Factor

D. NROI = ROI × IR

NROI is the new return on investment component

ROI is 17 percent of the current average drug cost

IR is the Interest Rate - Money and Capital Markets

E. RATE = (NORC + NPS + NOS + FCC) × ROEF + NROI where:

NORC, NPS, NOS, AND NROI are computed by formulae A - D above.

FCC is the fixed cost component which does not include prescription drug inventory.

ROEF is the return on equity factor of 1.05 applied to all cost components except return on investment which is calculated separately.

After formal adoption of the new maximum allowable overhead cost, the components computed above will become the base components used in calculating the next year's overhead maximum allowable, unless they are adjusted as provided in 5. below.

3. Parameters and Limitations

A. Method of Calculation. All calculations described herein shall be carried out algebraically.

B. Rounding. In all calculations the base maximum allowable and the base components will be rounded to the nearest one cent (two decimal places) and the Economic Adjustment Factors will be rounded to four decimal places.

4. Cost Survey

Every three years a cost survey shall be conducted which includes cost data for all enrolled pharmacy providers. Participation shall be mandatory for continued enrollment as a pharmacy provider. Cost data from providers who have less than 12 months of operating data shall not be utilized in determining average overhead cost or grouping providers by prescription volume. Predesk reviews shall be performed on all cost surveys to determine an average provider profile based upon total prescription volume. Through statistical analysis, minimum and maximum volume ranges shall be established which represent the majority of providers participating in Medicaid reimbursement. Cost surveys of providers whose prescription volumes are above or below the volume range established, shall not be utilized in calculating average overhead cost. Information submitted by participants shall be desk reviewed for accuracy and completeness. Field examination of a representative sample of participants shall be primarily random, but geographic location and type of operation shall be taken into consideration in order to ensure examination of pharmacies in various areas of the state and representative of various types of operations.

A. Cost Finding Procedures. The basic analytical rationale used for cost finding procedures shall be that of full costing. Under full costing, all costs associated with a particular operation are summed to find the total cost. The objective of cost finding shall be to estimate the cost of dispensing prescriptions through generally accepted accounting principles.

B. Inflation Adjustment. Where data collected from participating pharmacies represents varying periods of time, cost and price data may be adjusted for the inflation that occurred over the relevant period. The appropriate Consumer Price Index indicator (Table 12, Southern Region, Urban Consumer) and wage indicator produced by the U.S. Department of Labor, Bureau of Labor Statistics shall be utilized.

C. In addition to cost finding procedures, a usual and customary survey shall be included in the survey instrument. This instrument shall be used to determine the following:

(1) an average usual and customary charge, or gross margin for each pharmacy.

(2) the computation of the net margin per prescription (gross margin less computed dispensing cost per prescription) in order to approximate the average profit per prescription.

(3) computation of the average percentage of markup per prescription.

(4) the computation of average usual and customary charges shall include adjustments to allow comparability with upper limits for prescription reimbursement utilized by Medicaid of Louisiana.

D. Statistical Analysis. Statistical analysis shall be undertaken to estimate the cost to pharmacies of dispensing prescriptions. Such analysis shall include, but not be limited to:

(1) an average dispensing cost for pharmacies;

(2) analysis of the correlations among overhead costs and parameters deemed relevant to pharmacy costs;

(3) the statistical relationship between independent variables and dispensing cost shall be analyzed using the techniques of simple linear and stepwise multiple regression. Independent variables may include annual volume of prescriptions filled, pharmacy location, type of ownership, and number of Medicaid claims paid.

Before regression analysis is performed, efforts shall be made to insure that the data collected during the surveys

was accurate and representative, and that errors made during data entry are corrected. Efforts should include tabulations, cross tabulations, data plotting, and visual data inspection.

E. Survey Results. Medicaid of Louisiana shall consider survey results in determining whether the maximum allowable overhead cost should be rebased. Where the overhead cost survey findings demonstrate the current maximum allowable is below average cost or above the eightieth percentile of cost, rebasing shall be required. Medicaid of Louisiana may review the survey data and establish a new cost base utilizing the cost survey findings and any other pertinent factors, including but not limited to inflation adjustment; application of return on equity; recognition of inventory investment; etc.

5. Interim Adjustment to Overhead Cost. If an unanticipated change in conditions occurs which affects the overhead costs of at least 50 percent of the enrolled providers by an average of five percent or more, the maximum allowable overhead cost may be adjusted. Medicaid of Louisiana will determine whether or not the maximum allowable overhead cost limit should be changed when requested to do so by 10 percent of the enrolled pharmacies. The burden of proof as to the extent and cost effect of the unanticipated charge will rest with the entities requesting the change. Medicaid of Louisiana, however, may initiate an adjustment without a request to do so. Changes to overhead cost may be one of two types: temporary adjustments; or base adjustments as described below.

A. Temporary Adjustments. Temporary adjustments do not affect the base cost used to calculate a new maximum allowable overhead cost limit. Temporary adjustments may be made in the rate when changes which will eventually be reflected in the economic indices, such as a change in the minimum wage, occur after the end of the period covered by the index, i.e., after the December preceding the limit calculation. Temporary adjustments are effective only until the next overhead cost limit calculation which uses economic adjustment factors based on index values computed after the change causing the adjustment.

B. Base Rate Adjustments. Base rate adjustment may be made when the event causing the adjustment is not one that would be reflected in the indices. This would normally be a change in service requirements. Base rate adjustment will result in a new base rate component value(s) which will be used to calculate the maximum allowable overhead cost for the next year.

REGULATORY EXCEPTION

Implementation of this rule is subject to approval by the Health Care Financing Administration (HCFA) as required for all Title XIX policy changes. If disapproved by HCFA the policy prior to this change shall remain in effect.

J. Christopher Pilley
Secretary

RULE

Department of Natural Resources
Office of Conservation

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation has adopted the following rules of procedure reenacted and adopted by the commissioner of conservation as being reasonably necessary to govern and control matters involving the provisions of the Natural Resources and Energy Act of 1973.

Title 43
NATURAL RESOURCES
Part XI. Office of Conservation: Pipeline Division
Subpart 5. Compressed Natural Gas

Chapter 25. Compressed Natural Gas

§2501. Scope

A. This Chapter applies to the design and installation of compressed natural gas (CNG) engine fuel systems on vehicles of all types and CNG systems used for compression, storage, sale, transportation, delivery, or distribution of CNG for use in motor vehicles.

B. This Chapter also applies to all CNG mobile fuel systems used for filling vehicles.

C. This Chapter does not extend to the design and installation of any CNG system on ships, barges, sailboats, or other types of watercraft. Such installation is subject to the American Boat and Yacht Council (ABYCO) and any other applicable standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2503. Retroactivity

Unless otherwise stated, the regulations for compressed natural gas are not retroactive. Any installation of a CNG system must meet the requirements of the rules and regulations outlined herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2505. Definitions

The following words and terms, when used in this Chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Approved" means acceptable to the commissioner of conservation.

"Cascade storage system" means storage of CNG in multiple cylinders.

"CNG cylinder" means a cylinder or other container designed for use or used as part of a CNG system.

"CNG facility" means a non-vehicular CNG system.

"CNG system" means a system of safety devices, cylinders, piping, fittings, valves, compressors, regulators, gauges, relief devices, vents, installation fixtures, and other CNG equipment intended for use or used in any building or public place by the general public or in conjunction with a motor vehicle fueled by CNG and any system of equipment designed to be used or used in the compression, sale, storage, transportation for delivery, or distribution of CNG in portable CNG cylinders, but does not include a natural gas pipeline located upstream of the inlet of the compressor.

"Commissioner" means the commissioner of conservation of the State of Louisiana.

"Compressed Natural Gas (CNG)" means natural gas

which is a mixture of hydrocarbon gases and vapors, consisting principally of methane (CH_4) in gaseous form that is compressed and used, stored, sold, transported, or distributed for use by or through a CNG system.

"CNG cargo tank" means a container in accordance with American Society of Mechanical Engineers (ASME) or Department of Transportation (DOT) specifications and used to transport CNG for delivery.

"Cylinder service valve" means a hand-wheel-operated valve connected directly to a CNG cylinder.

"Dispensing station" means a CNG installation that dispenses CNG from any source by any means into fuel supply cylinders installed on vehicles or into portable cylinders.

"Filled by pressure" means a method of transferring CNG into cylinders by using pressure differential.

"Fuel supply cylinder" means a cylinder mounted in a vehicle for storage of CNG as fuel supply to an internal combustion engine.

"Manifold" means the assembly of piping and fittings used for interconnecting cylinders.

"Mobile fuel system" means any CNG system installed on a vehicle designed to furnish CNG to any apparatus that uses or consumes CNG.

"Motor vehicle" means a self-propelled vehicle licensed for highway use or used on a public highway.

"Outlet" means a site operated by a certified CNG facility at which the business conducted materially duplicates the operations for which the facility is initially granted a certificate. Elements to be considered in determining the existence of an outlet include, but are not limited to, the following:

1. storage of CNG on the site;
2. sale or distribution of CNG from the site;
3. supervision of employees at the site;
4. proximity of the site to other outlets;
5. communication between the site and other outlets; and
6. nature of activities.

"Person" means an individual, sole proprietor, partnership, joint venture, corporation, or other entity.

"Point of transfer" means the point where the fueling connection is made.

"Pressure relief valve" means a device designed to prevent overpressure of a normally charged cylinder.

"Settled pressure" means the pressure in a container at 70°F, which cannot exceed the marked service or design pressure of the cylinder.

"Transport" means any vehicle or combination of vehicles and CNG cylinders designed or adapted for use or used principally as a means of moving or delivering CNG from one place to another. This shall include, but not be limited to, any truck, trailer, semitrailer, cargo tank, or other vehicle used in the distribution of CNG.

"Ultimate consumer" means the individual controlling CNG immediately prior to its ignition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2507. Applicability

The provisions of this Chapter apply to pressurized components of a compressed natural gas (CNG) system, and are applicable to both engine fuel systems and compression, storage, and dispensing systems.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2509. Odorization

A. Compressed natural gas shall have a distinctive odor potent enough for its presence to be detected down to a concentration in air of not over one-fifth of the lower limit of flammability.

B. Compressed natural gas shall be odorized according to the provisions of LAC 43:XIII.2725 (Odorization of Gas).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2511. Severability

If any item, clause, or provision of these rules is for any reason declared invalid, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2513. Application for Construction or Certification of Existing Facilities

A. An application must be submitted to the commissioner for construction for each CNG facility and all applications must be accompanied by a filing fee in accordance with LAC 43:XIX.203.3. The application must have the following information:

1. the exact legal name of the applicant; its principal place of business; the state under the laws of which applicant was organized or authorized; if a corporation, a certificate of good standing and authorization to do business from the secretary of State of Louisiana, the location and mailing address of applicant's registered office, the name and post office address of each registered agent in Louisiana, and the name and address of all its directors and principal offices;
2. the nature of service to be rendered by applicant, sale to public, applicant's fleet, private fleet, and/or public transportation;
3. if any, location of applicant's existing CNG facilities;
4. a table of contents which shall list all exhibits and documents filed with the application;
5. a schematic of applicant's proposed facilities, which shall reflect the location and capacity of all compressor sites, point of connection with piping between compressor(s) and dispensing units;
6. a listing of applicant's gas supply for compression at the point the gas enters service facility for ultimate compression;
7. a CNG Form 100;
8. subsequent filings may be required by the commissioner to complete an evaluation.

B. The commissioner shall determine whether the design, manufacture, construction, or use of the depicted items, system, operation, procedure, or installation meets the minimum standards set forth by the American Society of Mechanical Engineers, Underwriters Lab and/or American Gas

Association. At the discretion of the commissioner an administrative order shall be issued authorizing the construction of a CNG facility. If the commissioner requires a public hearing on the matter, the applicant shall be notified within 15 working days from receipt of application and a hearing date shall be set. When an application is submitted to the commissioner, automatic approval is hereby granted and construction can begin 30 days after receipt of the application by the commissioner in lieu of a written order. However, any correspondence from the commissioner during the 30-day period may set aside the 30-day automatic approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2515. Acquisition of an Existing CNG Facility

Notice must be given to the commissioner by anyone wishing to acquire an as-built CNG facility. The notice shall include information outlined in §2513.A.1 and §2513.A.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2517. Changes in Service

If any owner of a CNG facility wishes to change the nature of service as listed in §2513.A.2 by adding additional services or deleting services, the operator of the facility shall notify the commissioner in writing and submit a Form CNG 101 "Change of Service." No change in service may occur without written approval from the commissioner; however, the applicant may make the changes applied for if the commissioner has not responded within 21 days after receipt of the change request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2519. Approval of CNG Systems Equipment and Components for Vehicles

All CNG equipment installed on a vehicle must meet the minimum standards set forth in Section 52 of the National Fire Protection Association (Vehicle Fuel System Standards).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2521. Design and Construction of Cylinders and Pressure Vessels

A. Cylinders and pressure vessels shall be fabricated of steel, aluminum, or composite materials.

B. Cylinders shall be manufactured, inspected, marked, tested, and retested in accordance with U.S. Department of Transportation (DOT) regulations and exemptions for compressed natural gas (CNG) service. Fuel supply cylinders shall have a rated service pressure of not less than 2,400 psig at 70°F. Cascade storage cylinders shall have a rated service pressure of not less than 3,600 psig at 70°F. Note: Currently, there are no cylinder specifications in DOT regulations for CNG. Current documents covering these cylinders are DOT exemptions. These are single purpose documents issued to a single company for a specific CNG application.

C. Pressure vessels and containers other than cylinders shall be manufactured, inspected, marked, and tested in accordance with the "Rules for the Construction of Unfired Pressure Vessels," "American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, Section VIII (Division 1)."

D. In addition to other marking requirements, cylinders shall be labeled with the words, "FOR CNG ONLY" in letters at least one inch high in a contrasting color, and in a location which will be visible after installation. Decals or stencils are acceptable.

E. Field welding or brazing for the repair or alteration of a cylinder or ASME pressure vessel is prohibited.

AUTHORITY NOTE: Promulgated in accordance, with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2523. Pressure Relief Devices

A. Each fuel supply cylinder in vehicles shall be fitted with a pressure relief device in accordance with the following:

1. pressure relief devices for cylinders shall be in accordance with Compressed Gas Association (CGA) Pamphlet –1.1 and be of the "Combination Rupture Disk Fusible Plug CG-5" type in which the fusible plug has a nominal yield temperature of 212°F;

2. only one combination rupture disk-fusible plug shall be installed in any pressure relief device opening;

3. the pressure relief device shall communicate with the fuel and be vented to the atmosphere by a method that will withstand the maximum pressure which will result;

4. the discharge flow rate of the pressure relief device shall not be reduced below that required for the capacity of the container upon which the device is installed;

5. the pressure relief device on cylinders shall be permanently marked with the manufacturer's name, initials, or trademark, the temperature rating (212°F) of the fuse plug, and the maximum pressure rating of the rupture disk.

B. The minimum rate of discharge of pressure relief devices shall be in accordance with Compressed Gas Association (CGA) pamphlet S-1.1 (cylinders); S-1.2 (cargo and portable tanks); S-1.3 (storage cylinders); or the ASME Code, whichever is applicable.

C. Pressure relief valves for CNG service shall not be fitted with lifting devices. The adjustment, if external, shall be provided with means for sealing the adjustment to prevent tampering by unauthorized persons. If at any time such seal is broken, the valve shall be removed from service until it has been reset and sealed. Any adjustments necessary shall be made by the manufacturer or his authorized representative(s).

D. Each pressure relief valve shall be plainly marked by the manufacturer of the valve, as follows:

1. with the pressure in pounds per square inch (psi) at which the valve is set to start-to-discharge;

2. with the discharge capacity in cubic feet per minute (cfm); or

3. any other marking(s) as required by the Department

of Transportation (DOT) or the ASME Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2525. Pressure Gauges

A. Pressure gauges shall be designed for the normal pressure and temperature conditions to which the devices may be subjected with a burst pressure safety factor of at least four.

B. Dials shall be graduated to read 1.2 times the operating pressure of the system to which the gauge is attached.

C. A gauge shall have an opening not to exceed 0.055 inches (number 54 drill size) at the inlet connection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2527. Pressure Regulators

A. A pressure regulator inlet and each chamber shall be designed for its maximum working pressure with a pressure safety factor of at least four.

B. Low pressure chambers shall provide for excessive pressure relief or be able to withstand the operating pressure of the upstream pressure chamber.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2529. Piping

A. Pipe, tubing, fittings, gaskets, and packing material shall be compatible with the fuel under the service conditions.

B. All tubing shall be a minimum of type 304 stainless steel. All tubing connections shall be made of manufactured multifarrel compression fittings.

C. Piping, tubing, fittings, and other piping components between a cylinder or pressure vessel and the first shutoff valve shall be capable of withstanding a hydrostatic test of at least four times the rated working pressure without structural failure.

D. Compressed natural gas piping shall be fabricated and tested in accordance with "American National Standard Code for Chemical Plant and Petroleum Refinery Piping," "American National Standards Institute (ANSI) B31.3." Such piping shall be "American Standard Testing Material (ASTM)" steel, Schedule 80, or better. All pipe fittings shall be forged steel stamped 6,000 psi or greater.

E. The following components or materials shall not be used:

1. fittings, street ells, and other piping components of cast iron or semi-steel other than those complying with "American Society for Testing and Materials (ASTM) Specifications A-536 (Grade 60-40-18), A-395, and A-47 (Grade 35018)";

2. plastic pipe, tubing, and fittings for high pressure service;

3. galvanized pipe and fittings;

4. aluminum pipe, tubing, and fittings;

5. pipe nipples for the initial connection to a cylinder or pressure vessel;

6. copper alloy with copper content exceeding 70 percent.

F. Piping components such as strainers, snubbers, and expansion joints shall be permanently marked by the manufacturer to indicate the service ratings.

AUTHORITY NOTE: promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2531. Valves

A. Valves, valve packing, and gaskets shall be suitable for the fuel over the full range of pressures and temperatures to which they may be subjected under normal operating conditions.

B. Shutoff valves shall have a design working pressure not less than the rated working pressure of the entire system with a safety factor of four.

C. Valves of cast iron or semi-steel other than those complying with "ASTM Specifications A-536 (Grade 60-40-18), A-395, and A-47 (Grade 35018)" shall not be used as primary shutoff valves.

D. Valves of a design that will allow the stem to be removed without removal of the complete bonnet or disassembly of the valve body, and valves with valve stem packing glands which cannot be replaced under pressure shall not be used. Exception: where there is a shutoff valve of acceptable type between them and the container or pressure vessel (this does not apply to service valves).

E. The manufacturer shall stamp or otherwise permanently mark the valve body to indicate the service ratings. Exception: fuel supply container valves need not be marked as such.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2533. Hose and Hose Connections

A. Hose and metallic hose shall be of or lined with materials that are resistant to corrosion and the actions of compressed natural gas (CNG).

B. Hose, metallic hose, flexible metal hose, tubing, and their connections shall be suitable for the most severe pressure and temperature conditions expected under normal operating conditions with a burst pressure of at least four times the maximum working pressure.

C. Hose assemblies shall be tested by the manufacturer or its designated representative prior to use at pressures equal to not less than twice the service pressure.

D. Hose shall be continuously and distinctly marked, indicating the manufacturer's name or trademark, CNG service, and working pressure. Metallic hose shall have a manufacturer's permanently attached tag marked with the manufacturer's name or trademark, CNG service, and working pressure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2535. Compression Equipment

A. Compression equipment shall be designed for use with compressed natural gas (CNG) and for the pressures and temperatures to which it may be subjected under normal operating conditions. It shall have pressure relief devices which shall limit each stage pressure to the maximum allowable working pressure for the cylinder and piping associated with that stage of compression.

B. When CNG compression equipment is operated unattended, it shall be equipped with a high discharge and low suction pressure automatic shutdown control.

C. Control devices shall be designed for the pressure, temperature, and service expected under normal operating conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2537. Vehicle Fueling Connection

A. A vehicle fueling connection shall provide for the reliable and secure connection of the fuel system cylinders to a source of compressed natural gas (CNG).

B. The fueling connection shall be suitable for the pressure expected under normal conditions and corrosive conditions which might be encountered.

C. The fueling connection shall prevent escape of gas when the connector is not properly engaged or becomes separated.

D. The refueling receptacle on an engine fuel system shall be firmly supported, and shall:

1. receive the fueling connector and accommodate the working pressure of the vehicle fuel system;

2. incorporate a means to prevent the entry of dust, water, and other foreign material. If the means used is capable of sealing system pressure, it shall be capable of being depressurized before removal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2539. External Corrosion Control

All buried pipe and/or tubing must be protected against external corrosion as outlined in LAC 43:XIII.2107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2541. Leak Survey

Each operator of a CNG facility having underground piping shall conduct a leak survey each calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

§2543. Report of CNG Incident/Accident

A. In case of an incident involving a single release of compressed natural gas (CNG) during or following CNG transfer or during container transportation, or an accident at any location where CNG is the cause or is suspected to be the cause, the person(s) owning, operating, or servicing the equipment or the installation shall notify the commissioner. This notification shall be by telephone as soon as possible after knowledge of the incident or accident. Any loss of CNG which is less than 1.0 percent need not be reported. However, any loss occurring as a result of a pullaway must be reported. The telephone number to be used to report accidents is (504) 342-5505.

B. Information which must be reported to the commissioner shall include:

1. date and time of the incident or accident;
2. type of structure or equipment involved;
3. resident's or operator's name;
4. physical location;
5. number of injuries and/or fatalities;
6. whether fire, explosion, or gas leak has occurred;
7. whether gas is leaking; and
8. whether immediate assistance from the commissioner is requested.

C. Any person reporting must leave his/her name, and telephone number where he/she can be reached for further information.

D. Any CNG powered motor vehicle used for school transportation or mass transit including any state-owned vehicle which is involved in an accident resulting in a substantial release of CNG or damage to the CNG conversion equipment must be reported to the commissioner in accordance with this Section regardless of accident location.

E. Following the initial telephone report, a CNG Form 200, Report of CNG Incident/Accident, must be submitted to the commissioner. The report must be postmarked within 14 calendar days of the date of initial notification to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751 and 752.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 18: (January 1992).

J. Patrick Batchelor
Commissioner of Conservation

RULE

Department of Natural Resources
Office of Conservation

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation has adopted the following amendment to the rules of procedure reenacted and adopted by the commissioner of conservation as being reasonably necessary to govern and control matters involving the provisions of the Natural Resources and Energy Act of 1973.

Title 43
NATURAL RESOURCES
Part XI. Office of Conservation: Pipeline Division
Subpart 1. Natural Gas and Coal
Chapter 1. Natural Gas and Coal

§141. Establishment, Promulgation, and Implementation of Emergency Gas Shortage Allocation Plan

A. This regulation shall apply to the establishment,

promulgation, implementation and administration of a plan for statewide emergency intrastate natural gas conservation, allocation or rationing pursuant to Part IV of the Act.

B. The policy of the state of Louisiana, pursuant to Part IV of Act 16, is to maintain, preserve and protect all those vital services and human needs which depend upon intrastate natural gas.

1. the governor of Louisiana has the authority pursuant to Part IV of the Act, to declare, from time to time, that as a result of extreme shortages of existing intrastate natural gas needed to maintain, protect and preserve human needs, that a state of emergency exists;

2. upon a declaration by the governor of the state of Louisiana that a state of emergency exists, the commissioner shall immediately implement by written order the emergency gas shortage allocation plan provided for in this regulation. The commissioner's order shall specify the nature and cause of the gas shortage emergency which resulted in the governor's declaration and shall require each intrastate natural gas transporter with a shortage of natural gas on its system to curtail and to reallocate intrastate natural gas in the custody and control of such intrastate natural gas transporter and may require other intrastate natural gas transporters to curtail such intrastate natural gas for reallocation to such transporter with a shortage all in accordance with the emergency gas shortage allocation plan as necessary;

a. in the event any person makes a request of the governor of the state of Louisiana or the commissioner for the declaration of a gas shortage emergency or issuance of any order in connection therewith ("applicant"), such applicant shall certify under oath that supplies of gas necessary to meet priorities one through five are physically unavailable from any other source. Such applicant also shall provide the commissioner with the following information in writing not more than 24 hours after making such request:

i. the precise nature of the gas shortage, the estimated amount of supply that is or may be curtailed and the estimated volume which must be made available to meet priorities one through five;

ii. the reasons such gas shortage exists;

iii. that applicant's efforts to secure alternate supplies of gas including a list of all pipelines, producers, marketing companies, or other specific potential suppliers contacted together with details as to the prices, terms and conditions offered by or requested from such potential suppliers and any rejection by such applicant of proposals for sale;

iv. an explanation of that applicant's inability to obtain alternate supplies of gas from any source;

v. a list of all pipelines connected to the plant, pipeline, or any other facilities of that applicant;

vi. in the event the applicant making such request is an intrastate natural gas transporter or local distribution company, he shall specify the level of curtailments by priority of customer on his system at the time the request is made and anticipated thereafter. Such entities may not make such a request for an emergency declaration unless they have adopted and filed with the commissioner a gas shortage allocation plan comparable to that of the state and are prepared upon issuance of an order to curtail all priorities six through nine categories of gas, using the gas curtailed to meet priorities one through five. The commissioner's order may not reallocate gas from other transporters until the commissioner is satisfied that there is insufficient gas available by curtailment of the gas available to the applicant's system or facility or for purchase from any source to meet priorities one through five;

vii. in the event the applicant is an end user of gas, he shall specify those volumes of gas available to him at the time the request is made and anticipated thereafter, whether those volumes constitute plant protection gas, and what alternative fuel capabilities exist; such information shall be furnished in the form of a sworn affidavit duly executed before a notary public by the appropriate person or corporate officer possessing such knowledge, as the case may be. The commissioner may make further inquiry or require additional information as necessary prior to the issuance of any order;

b. should the commissioner issue any order pursuant to such request, the applicant for whose benefit such order was issued and all intrastate natural gas transporters affected by such order shall inform the commissioner daily regarding the gas shortage emergency and its effect on those applicants. At such time as the commissioner may determine that the person for whose benefit such order was issued and all intrastate natural gas transporters affected by such order no longer have a gas shortage, the commissioner's order and the governor's declaration shall be terminated;

c. upon the declaration of a gas shortage emergency by the governor of the state of Louisiana and the issuance of any order in connection therewith by the commissioner, the commissioner immediately shall notify all affected intrastate natural gas transporters by telephone and, subsequently, in writing of such declaration or order. Such notice shall specify the curtailment procedures, orders, rules, or regulations of the commissioner to be implemented;

d. the commissioner, in his discretion, may notify such other persons of the existence of a gas shortage emergency as he deems appropriate, including local distribution companies, end users, and any other persons who have specifically requested that they be so notified. In addition, the commissioner shall request the governor's office to notify the media and the general public of such emergency and may request that citizens adopt measures to conserve the use of gas during the period of gas shortage;

e. upon receipt of notification from the commissioner of the declaration of a gas shortage emergency and the issuance of any order in connection therewith, each intrastate natural gas transporter affected by such order immediately shall notify its affected transportation and sales customers by telephone and, subsequently, in writing of such declaration or order. Such notice shall specify the curtailment procedures, orders, rules, or regulations of the commissioner to be implemented;

f. in order to implement this regulation, the commissioner shall require that each intrastate natural gas transporter annually submit a contact sheet containing the names, addresses, office and home telephone numbers of those senior officers or other persons to be contacted by the commissioner in the event a gas shortage emergency is declared. The contact sheet also shall contain the telecopy number of such intrastate natural gas transporter, if applicable. The commissioner may accept similar contact sheets containing necessary information from any person who wishes to be notified of such declaration. A contact sheet for the commissioner's office and staff shall be distributed to all intrastate natural gas transporters;

g. upon the finding by the governor that an emergency exists, the commissioner shall set a public hearing to be held

not later than five days after the date the governor declares the emergency. The purpose of such hearing will be to investigate the cause of the emergency and evaluate the response thereto. Notice of the public hearing shall be published in the official journal of the state of Louisiana at least three days prior to the date of hearing. At that hearing, any person affected by the emergency shall be permitted to appear, testify, adduce evidence, and cross examine the persons requesting the emergency declaration and those to whom intrastate natural gas is to be reallocated. Parties affected may request the commissioner to require parties to whom gas is being reallocated to produce information and documents relating to the need, availability, price and end use of gas;

h. the commissioner may, among other things, as a result of that hearing, change one or more of the priorities in the emergency gas shortage allocation plan, grant individual exceptions, alter the volumes of intrastate natural gas being reallocated, change the number of transporters from whom gas is to be reallocated, find that the circumstance of the person seeking a declaration of emergency did not or no longer warrants continuance of the order, take such action as is necessary to protect parties affected by reallocation and/or recommend to the governor that he declare that the emergency no longer exists.

C. The following plan is established and promulgated by the commissioner of conservation, which is to take effect in the event the governor of Louisiana declares a state of emergency and the commissioner issues an order implementing the plan, unless otherwise provided below, as a result of extreme shortages of existing intrastate natural gas for human needs, in order to maintain, preserve and protect all vital services in Louisiana depending upon intrastate natural gas and, to the extent applicable, for the curtailment of unnecessary and lesser priority uses of intrastate natural gas. The plan and any orders issued by the commissioner are herein referred to as the emergency gas shortage allocation plan.

1. the commissioner hereby adopts the following priority system:

a. first priority shall be given to the protection of public health, safety, and welfare including maintenance of gas and electrical service for hospitals, juvenile and adult correctional institutions, nursing homes, dormitories, educational facilities, hotels, motels, and residences such as individual homes, apartments and similarly occupied dwelling units, publicly owned water, sewerage, and storm water drainage systems producing their own energy, which systems supply services to the aforesaid, property owners who, through contract lease, or otherwise, reserve unto themselves a share of the natural gas produced from their property to serve their needs, and plant protection gas;

b. second priority shall be given to the maintenance of agricultural operations, and the processing of agricultural products, including farming, ranching, dairy, water conservation and commercial fishing activities, and services directly related thereto, operations of food processing plants, businesses and facilities processing products for human consumption;

c. third priority shall be given to exploration, production, processing, and refining efforts to attain maximum production or extraction of oil, natural gas, other hydrocarbons, and minerals mined by the Frasch process;

d. fourth priority shall be given to the maintenance of commercial and industrial activities utilizing less than 1.5 million cubic feet of gas on a peak day;

e. fifth priority shall be given to the maintenance of all public services, including facilities and services provided by municipal cooperative, or investor-owned utilities required for customers who come under priorities two, three or four, or by any state or local government or authority, and including transportation facilities and services which serve the public at large. This priority shall not apply to those publicly-owned water, sewer and storm water drainage systems referred to under the first priority;

f. sixth priority shall be given to the preservation of an economically sound and competitive petroleum, petrochemical and chemical industry. Those industries requiring the use of intrastate natural gas for feedstock or process needs, and public utilities generating electricity for sale to consumers listed above under priorities one, two, three, four and five, which own or have acquired at the wellhead their own source of intrastate natural gas supply, or which acquire such gas supply or any portion thereof from a wholly-owned subsidiary company, or which have acquired such gas supply from any source in its name or in the name of its wholly-owned subsidiary and have stored it in an intrastate storage facility, and which are using such supply in the operation of their own facilities, shall, as long as they continue to use said gas for feedstock or process needs, or for generating electricity for sale to consumers listed above under priorities one, two, three, four and five, have and be recognized as possessing first priority, above all others in sixth priority, for use of said gas. Industrial companies not owning intrastate natural gas reserves for their own use for feedstock or process needs shall be subject to curtailment first, and those companies owning intrastate natural gas reserves for their own use, or which acquire such gas supply or any portion thereof from a wholly-owned subsidiary company, or which have acquired such gas supply from any source in its name or in the name of its wholly-owned subsidiary and have stored it in an intrastate storage facility for such purposes shall be subject to curtailment second and may not be curtailed except as to meet priorities one through five on the intrastate natural gas transporter serving such industrial companies or any other intrastate natural gas transporter; provided, further, that any person to whom those industries requiring the use of intrastate natural gas for feedstock or process needs which own their own source of intrastate natural gas may have heretofore contracted to sell a portion of their own gas for feedstock or process needs shall have a priority for the use of said gas for feedstock or process needs equal to the priority accorded to their vendor by this Paragraph;

g. seventh priority shall be given to the maintenance of industrial requirements not specified in priority six, except for boiler fuel;

h. subject to the plants and facilities covered by the first and second priorities, eighth priority shall be given to industrial plants, including electrical generating plants to the extent not provided for in priority five, having a present requirement for use of intrastate natural gas for boiler fuel not possessing present alternate fuel capabilities. Such plant may, however, be required by the commissioner to convert to alternate fuels within a reasonable time, considering all pertinent circumstances, or suffer curtailment by order of the commissioner of its use of intrastate natural gas. The commissioner may require the industry affected to submit to him

evidence as to why the industrial plant cannot convert to alternate fuels within the delay specified; and, if the user alleges otherwise, and if required by the commissioner, why the industrial plant cannot be operated on a profitable basis with the use of alternate fuels.

i. The commissioner may authorize the use of intrastate natural gas for use as boiler fuel if the industry demonstrates that it cannot convert to alternate fuel capability by reason of the fact that it is economically not feasible, that the industrial plant would otherwise have to close, because it could not operate with a margin of profit considered reasonable in the particular industry, or that the cost of converting to alternate fuels is totally disproportionate to the existing investment in plant facilities. If the commissioner determines that for those reasons the industrial plant cannot reasonably be converted to the use of alternate fuel capabilities and remain in business, the commissioner may, if he determines that intrastate natural gas is available for such use, grant to that industry a higher priority of use than is herein provided;

j. ninth priority shall be given to industrial plants including electrical generating plants to the extent not provided for in priorities five and eight, having a present requirement for boiler fuel use, in those instances where alternate fuel capabilities now exist, or may be installed with relatively minimal cost and delay. Industries possessing existing alternate fuel capabilities or, if the commissioner determines that alternate fuel capability can be installed with relatively minimal cost or delay, may be curtailed in their gas supply by the commissioner, and directed by the commissioner to change from use of intrastate natural gas to use of alternate fuels within a limited time to be fixed by the commissioner considering all pertinent circumstances. The commissioner may, if he determines that intrastate natural gas is available for such use, and if the commissioner determines that it is economically infeasible to operate a plant with alternate fuels, grant to the plant a higher priority of use;

2. each intrastate natural gas transporter and local distribution company shall annually file with the commissioner an allocation plan (consistent with the state's emergency gas shortage allocation plan) to be implemented in the event the commissioner so orders, which plan shall provide for the conservation and allocation of gas in accordance with the priorities and exemptions established herein. Such plan further shall assign curtailment priorities and volumes to each end use or local distribution customer of that intrastate natural gas transporter or local distribution company. Copies of the allocation plan shall be furnished to each intrastate natural gas transporter or made available to each local distribution company's customers, who may challenge the assigned priority status before the commissioner. Unless the commissioner determines otherwise after notice and hearing, each end user of natural gas will be considered to have the priority assigned by its intrastate natural gas transporter or local distribution company;

a. the allocation plan must identify by customer type the end use of all gas delivered by the intrastate natural gas transporter including a classification by curtailment priority and volume deliverable to all then current end use and local distribution customers of the transporter. Customers which use natural gas for more than one purpose or end use must be classified under separate curtailment priorities by volume. Such information must be updated and supplemented annually;

b. such allocation plan also shall contain procedures to be implemented by such person or entity to encourage the conservation of intrastate natural gas by its customers or employees in the event an emergency is declared;

3. in the event the governor of Louisiana declares a state of emergency pursuant to Louisiana R.S. 30:571, as amended, then and for the duration of such emergency or as otherwise ordered by the commissioner each intrastate natural gas transporter with a shortage of natural gas on its system shall curtail deliveries to its customers and shall allocate its natural gas, pursuant to order of the commissioner, so that all natural gas deliveries to its priority nine customers are curtailed before any curtailment of its priority eight customers. If all of the intrastate pipeline's priority nine customers are being curtailed to the maximum extent required by law and further curtailment is necessary, then deliveries of natural gas to all of its priority eight customers shall be curtailed before any curtailment of its priority seven customers. If deliveries of natural gas to all of the intrastate pipeline's priority eight customers are being curtailed to the maximum extent required by law and further curtailment is necessary, then deliveries of natural gas to all of its priority seven customers shall be curtailed before any curtailment of its priority six customers. If deliveries of natural gas to all of the intrastate pipeline's priority seven customers are being curtailed to the maximum extent required by law and further curtailment is necessary, then deliveries of natural gas to all of its priority six customers shall be curtailed before any of its priority five customers, provided however, that all priority six customers that do not own their own gas supply or do not acquire such supply from a wholly-owned subsidiary company for feedstock or process shall be curtailed 100 percent before gas owned by priority six customers for feedstock and process use may be curtailed at all. All such curtailments shall be by the order of the commissioner issued pursuant to Subsection B.2;

4. if after the curtailments required in Subsection C.3 have been effectuated, any intrastate natural gas transportation system still has a shortage of natural gas in its system that would require the curtailment of its priority five and higher customers, then, and in that event, the commissioner shall order such additional curtailments and redeliveries of natural gas as he deems advisable and necessary to the extent authorized by law.

D. The commissioner may, as he deems necessary, change the emergency gas shortage allocation plan and/or the priorities contained therein, but in the absence of a serious immediate emergency as is hereinafter provided, may only do so after public hearings.

1. all applicable procedures required by Section 953 of the Administrative Procedure Act, R.S 49:951-962, for the adoption of administrative rules, shall be complied with for the establishment and promulgation of any such changes to said plan and/or priorities;

2. the plan shall be implemented as so changed and promulgated in the event the state of emergency is or has been declared by the governor as specified in Subsection B;

3. all intrastate natural gas transporters directly affected by any such change in the plan, priority assignments, curtailments procedures, orders, rules or regulations of the commissioner and purchasers from and/or such transporters' system shall be notified in writing by the commissioner of such change, specifying the curtailment

procedures, orders, rules or regulations they must now comply with and/or are now subject to.

E. If after a state of emergency has been declared by the governor as specified in Subsection B, the commissioner finds to exist a serious immediate emergency, which requires a change in the plan and/or the priorities therein, he may change the plan and/or the priorities without first having a hearing by issuing an emergency order providing for such changes.

1. all applicable procedures set forth in the Administrative Procedure Act, R.S. 49:951-968, shall be complied with;

2. all intrastate natural gas transporters directly affected by any such emergency order providing for any change in the plan, priority assignments, curtailment procedures, orders, rules or regulations of the commissioner relating to the plan, and customers on such transporters' system shall be notified in writing by the commissioner of such change, specifying the curtailment procedures, orders, rules or regulations they must now comply with;

3. the emergency order shall only remain in force for 30 days from its effective date, unless and except the commissioner has been physically unable to hold and complete public hearings by reason of the pressure of multiple public hearings on such matters;

a. in such case, the emergency order shall only remain in effect until such time as the commissioner can physically conduct and complete a hearing for the change of the plan and/or priorities but in no case longer than 120 days from its effective date, after which time the order will automatically expire;

b. any such time period commences on the effective date of such order;

c. in any event, the emergency order shall expire whenever the change is established and promulgated after notice and public hearings as provided in Subsection D.

F. If after a state of emergency has been declared by the governor as specified in Subsection B, the commissioner finds to exist a serious immediate emergency, he has the express authority to alter the emergency gas shortage allocation plan as to individual situations in order to alleviate exceptional hardship cases.

1. for purposes of Subsection F.2.b, *interested parties* shall mean any transporter of intrastate natural gas that would be directly affected by the granting of an exception to the emergency gas shortage allocation plan, as well as all customers on such transporters' system and any person which owns its own gas supply that would be directly affected;

2. any individual seeking to take advantage of this provision shall:

a. request the commissioner in writing for such an exception, which written application shall include:

i. a statement of the facts and circumstances that create an exceptional hardship case;

ii. a list of the names and addresses of all interested parties;

iii. a statement that all interested parties have been notified in writing as required by this Section;

b. notify in writing all interested parties of the application to the commissioner for an individual exception based on exceptional hardship;

c. present to the commissioner such evidence as he deems necessary to provide his case of exceptional hardship;

3. the emergency order shall only remain in force for 30 days from its effective date, unless and except the commissioner has been physically unable to hold and complete public hearings by reason of the pressure of multiple public hearings on such matters;

a. in such case, the emergency order shall only remain in effect until such time as the commissioner can physically conduct and complete a hearing for the change of the plan and/or priorities, but in no case longer than 120 days from its effective date, after which time the order will automatically expire;

b. any such time period, commences on the effective date of such order;

c. in any event, the emergency order shall expire whenever the change is established and promulgated after notice and public hearings as provided in Subsection D;

4. any action taken by the commissioner pursuant to a hearing called in response to any person seeking an individual exception under this Part shall be considered an "adjudication" for purposes of the Administrative Procedure Act, R.S. 49:951-968;

5. whatever action the commissioner takes pursuant to the requested exception, all interested parties shall be notified in writing by the commissioner of such action, specifying what curtailment procedures, orders, rules or regulations they must now comply with and/or are now subject to.

G. Any person affected by any assignment of priorities, curtailment procedures, rules, regulations or orders of the commissioner relating to the emergency gas shortage allocation plan, or changes therein may request the commissioner to call a hearing to contest such assignment of priority, curtailment procedure, rule, regulation or order.

1. for purposes of this Paragraph, *interested parties* shall mean any transporter of intrastate natural gas that would be directly affected by any change in the assignment of priorities, curtailment procedures, orders, rules or regulations of the commissioner relating to the plan, as well as all customers on such transporters' system;

2. any person contesting the assignment of priorities, curtailment procedures, orders, rules or regulations of the commissioner relating to the plan, or changes therein, shall:

a. request the commissioner in writing for a hearing in order to contest said priority assignment, curtailment procedure, order, rule or regulation of the commissioner, which written application shall include:

i. a concise statement of the matters being contested and the reasons therefor;

ii. a list of the names and addresses of all interested parties;

iii. a statement that all interested parties have been notified in writing as required by this Section;

b. notify in writing all interested parties of the requested hearing;

c. present to the commissioner such evidence as he deems necessary to prove his case;

3. the commissioner shall, as soon as practical after receiving such request, call a public hearing;

a. interested parties shall be notified in writing by the person seeking the exception;

b. in addition to the above notice, notice of the public hearing shall be published in the official journal of Louisiana

at least 10 days prior to the date of the hearing;

4. any action taken by the commissioner pursuant to a hearing called in response to any person seeking an individual exception under this Part shall be considered an "adjudication" for purposes of the Administrative Procedure Act, R.S. 49:951-968;

5. within 30 days after the conclusion of such hearing, the commissioner shall take whatever action he deems necessary by way of order, rule or regulation;

a. any change in assignment of priorities, curtailment procedure order, rule or regulation of the commissioner pertaining to the plan as a result of such contested hearings may be promulgated without the necessity of further public hearings and the contested hearings shall serve as public hearings required in Subsection D;

b. in the event the commissioner fails or refuses to take action within 30 days after completion of such hearings, he may be compelled to do so by mandamus at the suit of any interested party;

c. all interested parties shall be notified in writing by the commissioner of any such change, specifying what curtailment procedures, orders, rules or regulations, they now must comply with and/or are now subject to;

6. any such party contesting the assignment of priorities, curtailment procedures, rules, regulations or orders of the commissioner aggrieved by the ruling of the commissioner is entitled to such rehearing and judicial review as provided in the Administrative Procedure Act, R.S. 49:951-968.

7. All requirements and procedures established above in Subsection G.1-6 apply equally to any person seeking an individual exception on the basis of unintended results.

H. If the results of some aspects of the emergency gas shortage allocation plan promulgated by the commissioner are contrary to its stated intent, the person affected may request the commissioner to grant an individual exception on the basis of unintended results.

I. Any curtailment procedure provided for, whether contained in the emergency gas shortage allocation plan promulgated by the commissioner or the allocation plan of each transporter must provide for curtailment to the extent permitted by law on each transporter's system of all those placed in the lower priority category before any curtailment of the next higher priority is commenced, unless and except the commissioner finds exceptions as provided in Subsection F or H or that such exception is in the public interest.

J. No daily allocation, curtailment procedure, rule, regulation or order of the commissioner relating to the emergency gas shortage allocation plan shall apply to natural gas in amounts less than 25 million cubic feet per day, inclusive, owned or purchased by a person at or near the field where produced and transported by said person through his own pipeline or pipeline facility solely for his own consumption, except and unless,

1. after a state of emergency has been declared by the governor as specified in Subsection C, the commissioner finds to exist a serious immediate emergency impairing gas otherwise required for the first five priorities of the emergency gas shortage allocation plan which cannot be substantially otherwise provided for;

2. notwithstanding such a serious immediate emergency, no daily allocation, curtailment procedure, rule, regulation or order of the commissioner relating to or part of the emergency gas shortage allocation plan may ever result in the reduction of more than 10 percent of such gas above described in Subsection J.

K. Notwithstanding any other provision of this regulation, no daily allocation, curtailment, procedure, rule, regulation or order of the commissioner relating to or forming part of the emergency gas shortage allocation plan may result in a reduction of more than 10 percent of the maximum daily quantity of intrastate natural gas contracted to be delivered to a purchaser under any contract existing on the effective date of the Natural Resources and Energy Act of 1973.

L. Non-compliance with the emergency gas shortage allocation plan or any curtailment procedure, rule, regulation or order of the commissioner relating thereto may not be excused on the grounds of any private contractual obligations.

M. No person who complies with the emergency gas shortage allocation plan or any curtailment procedure, rule, regulation or order of the commissioner relating thereto shall be liable to any person for any damages, including without limitation, consequential or indirect damages, whether ex contractu or ex delicto, by reason of such compliance, unless the applicant seeking a declaration of an emergency is determined by the commissioner to have knowingly and willfully improperly obtained the order and implemented the emergency gas shortage allocation plan, in which event protection from liability for damages shall not be available to such applicant.

N. Notwithstanding any other provision of this regulation, no intrastate natural gas transporter shall be required to curtail or to redeliver for the use of any third-party, plant protection gas and Natural Gas Policy Act of 1978 ("NGPA") §311(a)2 gas.

1. *plant protection gas* signifies those volumes of natural gas necessary to ensure the orderly shutdown of plant manufacturing facilities without significant risk to plant personnel, property, or the environment, including protection of materials in process, and, thereafter, required to maintain basic services such as air, water, light, and heating necessary to ensure the continued protection of such personnel, property, or the environment;

2. in order to qualify for plant protection gas, any end user of natural gas in the state of Louisiana must apply to the commissioner for a determination of its plant protection gas, including a plan for safe and orderly shutdown of the plant.

O. In implementing the state's emergency gas shortage allocation plan, all gas volumes required to be curtailed or reallocated from one intrastate natural gas transporter's pipeline system to another intrastate natural gas transporter to meet priorities one through five on any intrastate natural gas transporter's system shall, to the extent practical, be taken statewide from all intrastate natural gas transporters directly and indirectly connected to and capable of delivering gas into the intrastate natural gas transporter's system requiring the reallocated volumes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501-599, 601-606.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 7:80 (April 1981); amended LR 18: (January 1992).

J. Patrick Batchelor
Commissioner of Conservation

RULE

Department of Natural Resources
Office of Mineral Resources

In accordance with R.S. 49:950, et seq., the Department of Natural Resources, Office of Mineral Resources, is amending LAC 43:I. Part V, Chapter 1 as follows:

Title 43
NATURAL RESOURCES
Part V. Office of Mineral Resources

Chapter 1. Administration Division

§101. Rules and Regulations Applicable to Geophysical and Geological Surveys Conducted Upon or Relating to State-Owned Lands and Waterbottoms

A. Permits for geophysical and geological surveys under Title 30, Chapter 3, Sections 211 through 216 of the Revised Statutes of 1950 shall be obtained from the State Mineral Board through the Office of Mineral Resources.

B. Application for a permit for such exploration must be filed in quadruplicate with one copy addressed to the secretary of the Department of Natural Resources and three copies addressed to the deputy assistant secretary of the Office of Mineral Resources at least 10 days before the requested effective date of the permit and each copy must be accompanied by supporting documents as follows:

1. If permittee is a shooting company, as hereinafter defined, the name of the client for whom the permit is being secured; if permittee is not a shooting company, the name of the shooting company that will do the geophysical and/or geological survey under the secured permit; or if permittee is a shooting company planning to permit itself for speculative purposes, a statement to that effect.

2.a. A statement of the type work planned such as gravity meter, magnetometer, reflection, refraction and/or any other recognized methods of acquiring geophysical or geological data, and the name of the client for whom the survey is being shot, if one. It is required that official permit application forms be used which are available upon request from the Office of Mineral Resources.

b. All permits shall not be deemed to cover and include any state oil and gas lease either in effect or thereafter to be in effect, so long as such lease or leases remain in effect, covering any portion of the area covered by the permit or permits, but if permittee or permittees shall secure appropriate consent from the lessee or lessees under any such lease or leases to conduct operations thereon of the type permitted by the permit or permits, such permit or permits shall evidence the acquiescence of the State Mineral Board in such consent. Upon expiration, lapse, or termination of any such state lease or leases, permits shall automatically extend to cover the acreage formerly under lease, if the acreage no longer under lease falls within the geographic area designated on the map submitted by the permittee as being the area proposed for geophysical and/or geological survey.

C. Whenever there arises an emergency or other cause which prevents the applicant from filing application as above provided, application for a permit for such exploration may be requested in any manner, and the deputy assistant secretary of the Office of Mineral Resources is authorized to grant, in any manner, temporary permission to conduct such geophysical operations after notifying the secretary of the Department of Natural Resources and the Department of Wildlife and Fisheries of the informal application for this temporary permit. Operations under this Paragraph shall be confined to the areas affected by the emergency conditions such as are deemed to exist in the discretion of said deputy assistant secretary of the Office of Mineral Resources. Within 10 days of the date of granting written application shall be filed in accordance with the provisions of §101.B.

D. Permits are limited to a period of one year from date of issuance, unless revoked for cause.

E. In order to accommodate proper administration of permits and orderly operations thereunder, the applicant must submit to the Office of Mineral Resources notice of the date of commencement of any geophysical and geological work authorized by a permit, a plat acceptable to the Office of Mineral Resources reasonably identifying and locating each particular grid area in which operations are to be conducted and, after completion of field operations, a like plat on each proposed grid area, which is to be supplemented with any additional detailed work thereafter conducted, reflecting the locations of the lines shot, all shot point locations and the date of completion of said work. Additionally, the permittee, in purchasing the permit to conduct geophysical and geological surveys on state lands and waterbottoms; may, but shall not be required to, voluntarily agree to make available to the Office of Mineral Resources and the State Mineral Board, at permittee's office or at the Office of Mineral Resources on request at the permittee's option, the fully migrated and processed data derived from each and every survey project conducted under the permit, within 90 days of shooting and/or acquisition of raw data or as soon thereafter as is reasonable under the circumstances. Any migration or processing which occurs after 90 days shall be submitted within 30 days of migration or processing of data or, again, as soon thereafter as is reasonable under the circumstances. All such plats and data secured by the Office of Mineral Resources or the State Mineral Board hereunder shall be deemed confidential and not subject to the public records doctrine; but shall be for the use of the staff and the personnel of the Office of Mineral Resources and the State Mineral Board only. All plats and data obtained by permittees in conducting operations under a permit shall be governed by R.S. 30:213. For the purpose of these rules and regulations, date of commencement of operations is defined as the date upon which surveying crews and equipment are moved into the area to be worked for purposes of preliminary line placement surveying prior to actual geophysical surveying.

F. A permit to conduct geophysical and geological surveying in the state of Louisiana shall be subject to the following terms:

1. The permit shall be valid for a period of one year from issuance.

2. The permit shall be valid for the entire state of Louisiana.

3. a. If the business entity - whether individual, sole proprietorship, partnership, corporation or other enterprise of any kind whatsoever - applying for and obtaining the permit hereunder is engaged in the business of shooting geophysical and/or geological surveys (hereinafter referred to as "shooting company"), the permit shall be valid only to the extent work done thereunder by the shooting company services one single client or one single project if shot for more than one client. Geophysical and/or geological survey work done for more than one client by the shooting company shall

require separate permits for each client unless shooting a single project.[1]

b. If the business entity applying for and obtaining the permit hereunder is not a shooting company, the permit secured shall be valid only to the extent that the permittee utilizes a single shooting company or its own employees to conduct a geophysical/geological survey and/or shall apply to a single geophysical/geological survey project. If more than one shooting company is utilized to conduct geophysical/geological surveying on the same project, no additional permits are needed.[2] Each additional shooting company utilized to conduct a geophysical/geological survey project for the business entity described in Subparagraph b herein shall require the securing of an additional permit for each shooting company for each project.

c. If a shooting company secures a permit for its own use for speculative purposes, that permit shall not be utilized to do any geophysical and/or geological survey work for a particular client.

d. No permit for geophysical and/or geological survey granted hereunder shall be transferable and shall be specific as to the party securing the permit, the party for whom the permitted work is being done, the project - including location and description - covered by the permit, and the date on which the work permitted will begin.

4. A certified check, cashier's check or bond money order in the amount of $11,000 payable to the Office of Mineral Resources shall accompany each application as the fee for issuance of a permit.

5. Violation by the permittee of any of the terms specified in these rules for fees as promulgated or which may be written on the permit form shall be deemed a permit violation by the Office of Mineral Resources subjecting permittee to the cancellation of his permit and forfeiture of his permit fee.

G. Pursuant to R.S. 30:124 all permits will be issued subject to strict compliance by the permittee with all applicable rules governing the conduct of seismic exploration in water areas as such rules may from time to time be promulgated by the Department of Wildlife and Fisheries for the protection of oysters, fish, and wildlife. Further, all wildlife and waterfowl refuges, game and fish preserves, or oyster seed ground reservations or any part thereof, shall not be deemed to be included in the area covered by any permit unless written permission from the agency in charge of such refuge, preserve, or reservation is also secured.

H. The State Mineral Board hereby declares that all information, maps, and other data of every kind whatsoever that are supplied to the board pursuant to the requirements of R.S. 30:213 shall be kept confidential and shall be available only to the State Mineral Board and commissioner of conservation in the proper administration and development of state-owned lands and waterbottoms. In order to make effective such secrecy, all such maps and other data shall at all times be kept under lock and key, except during the course of actual examination by or on behalf of the board or the commissioner. Any violation of these requirements is hereby declared cause for peremptory removal from office or discharge of the offending officer or employee or employees in addition to the penalty provided by R.S. 30:216.

I. The permitting requirements of R.S. 30:212 do not apply to the lessees of state-owned lands and waterbottoms under the lease for mineral exploration and development. However, the provisions of §101.G, H and I of these rules shall be applicable to any geophysical exploration conducted by or for the account of such a lessee.

J. The approval of the State Mineral Board, through its duly authorized officer, of any permit, is granted subject to any future rules and regulations which may be adopted by the State Mineral Board from time to time. The board hereby declares that in the event any changes in the rules and regulations are effected, 30 days written notice shall be given to all permittees whose permits are still in effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:212.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 4:9 (January 1978), amended LR 18: (January 1992).

§103. Fees

The Department of Natural Resources, pursuant to the authority of Act 13 of the 1988 First Extraordinary Session of the Louisiana Legislature, has adopted the following fees commensurate with costs incurred in administration of state oil, gas or mineral leases and geophysical and geological permits on state-owned lands and waterbottoms.

A. Fee for new mineral leases equal to 10 percent of cash payment to be submitted at time of execution of lease.

B. Fee of $100 for processing assignments affecting state mineral leases.

C. Fee of $500 for processing unitization agreements and other advertised instruments.

D. Fee of $120 annually for subscription to Notice of Publication.

E. Fee for conducting geophysical surveys on state-owned lands and waterbottoms in the amount of $11,000 for each permit required under §101.G.

F. Kinds and anticipated amounts of costs are:

Personal Services	$1,868,778
Operating Expenses	210,170
Other Charges	852,917
TOTAL:	$2,931,865

G. Fee of $35 per hour for the number of staff hours required to process requests from payors of royalties seeking reimbursements of overpayments of royalties.

H. Fee for the administration of the in-kind royalty program, authorized by statute, although not collected last year due to absence of in-kind royalty program, could possibly exceed $150,000 if the program is re-implemented.

I. This fee schedule, as amended, shall be repromulgated, and the provisions hereof shall be in full force and effect, as of March 1, 1992 and shall continue in force until cancelled by the Office of Mineral Resources, any other order by a duly authorized person or entity, or by order of a proper court of law.

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[1] The State Mineral Board through the Office of Mineral Resources reserves the right and power to determine whether any shooting for geophysical/geological survey constitutes part of a single project by a shooting company for one or more clients and, thereby, to determine if additional permitting is necessary.

[2] The State Mineral Board through the Office of Mineral Resources reserves the right and power to determine whether additional geophysical/geological survey work by a shooting company originally-permitted for or a different shooting company is a component part of a previously permitted geophysical/geological survey project, and thereby shall determine whether additional permitting is necessary.

AUTHORITY NOTE: A-F Promulgated in accordance with Act 13, First Extraordinary Session, 1988. G-I Promulgated in accordance with R.S. 30:136(A), (2) and 30:142(A), as amended, respectively, by Acts 1017 and 1018 of 1990.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Mineral Resources, LR 14:544 (August 1988), amended LR 16:1062 (December 1990), amended LR 18: (January 1992).

Martha A. Swan
Secretary

RULE

Board of Examiners of the Associated Branch Pilots for the Port of New Orleans

In accordance with R.S. 34:945(A) and the provisions of the Administrative Procedure Act, The Board of Examiners of the Associated Branch Pilots for the Port of New Orleans, Louisiana has adopted rules regarding standards of conduct and safety.

NAVIGATION AND SHIPPING
Part A. General Provisions

§501. Authority

As mandated by R.S. 34:945 (A), these rules and regulations are issued by the Board of Examiners of Bar Pilots for the Port of New Orleans in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of adopting rules, regulations and requirements for holding examinations for all applicants who have registered with them for the posts of bar pilots.

§502. Purpose

The purposes of these rules and regulations are as follows:

A. To establish standards for recommendation by the Board of Examiners of Bar Pilots for the Port of New Orleans to the governor of the state of Louisiana for appointment as bar pilots who pursuant to R.S. 34:941 et seq. have the duty to pilot sea-going vessels into and out of the entrances of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waterways of the Gulf of Mexico.

§503. Definitions

The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

A. *Administrative Procedure Act* means the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

B. *Application* means the written application supplied by the Board of Examiners to an applicant who desires to become a bar pilot for the Port of New Orleans.

C. *Board of Examiners* or *Board* means the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

D. *Bar Pilot* or *Pilot* means a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

§504. Severability

If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

§505. Effective Date

These rules and regulations shall be in full force and effective upon final publication in the *Louisiana Register.* All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations as well as any amendments, after the rules and regulations are adopted by the board of examiners.

§506. Qualifications of Pilots

No person shall be recommended to the governor for appointment as a bar pilot unless the applicant (1) is a qualified elector of the state of Louisiana; (2) has served at least 12 months next preceding the date of his application in a pilot boat at the mouth of the Mississippi River or other entrances into the Gulf of Mexico or other outside waters from the Port of New Orleans; (3) has successfully passed the examination given by the board of examiners, as required by R.S. 34:948; (4) owns or has made a binding legal agreement to acquire as owner or part owner of at least one decked pilot boat of not less than 50 tons burden, which is used and employed exclusively as a pilot boat, as required by R.S. 34:950; (5) is a high school graduate, or in lieu thereof holds a third mate's license; (6) has served at least one year at sea on a sea-going vessel of not less than 1600 gross tons in the deck department; (7) has successfully passed a physical examination which in the judgement of the board of examiners includes those standards, such as vision, color perception and hearing tests, to perform duties as a bar pilot; (8) is of good moral character and less than 31 years of age; and (9) shall have completed satisfactorily an apprenticeship program which culminates in a cubbing period of not less than nine months duration handling vessels over the routes of the bar pilots under the supervision of not less than 25 licensed state bar pilots.

§507. Minimum Requirements

The board of examiners shall review and if found satisfactory approve the apprenticeship program of the applicant, the minimum requirements of which shall be as follows: the applicant must set forth in detail the names of the vessels handled, dates handled, the direction of travel, size, draft, and type of vessel, and the name of the supervising bar pilot. During the period of apprenticeship the applicant shall handle vessels on not less than 650 occasions, two-thirds of which shall be at night.

The board of examiners will review the number and times of vessels handled, the size, draft, and type of vessels and the conditions under which the applicant has performed the apprenticeship in order to determine if the applicant has had sufficient exposure as to enable the board of examiners to make a determination of the applicant's competence and ability to perform the duties of a bar pilot.

The board of examiners shall prescribe the form of the application and required documentary proof of the applicant's eligibility.

§508. Bond

No person shall assume the position of bar pilot until he shall have first taken the oath prescribed by law and has furnished a bond in favor of the governor in the amount of $2,000 conditioned on the faithful performance of his duties imposed upon him as a bar pilot. This bond shall be ap-

proved by the Board of Commissioners of the Port of New Orleans.

PILOTS

Part A. General Provisions

§601. Authority

As mandated by R.S. 34:945(C)(1), these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of establishing minimum standards of conduct for bar pilots and for the proper and safe pilotage of sea-going vessels into and out of the entrance of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

§602. Purpose

The purposes of these rules and regulations are as follows:

A. To establish certain minimum standards of conduct, including conduct relative to neglect of duty, drunkenness, carelessness, habitual intemperance, substance abuse, incompetency, unreasonable absence from duty, and general bad conduct of bar pilots.

B. To provide a uniform set of rules and regulations for the proper and safe pilotage of sea-going vessels upon the waterways referred to in §601.

§603. Definitions

The following terms as used in these rules and regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings:

A. *Administrative Procedure Act* means the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

B. *Board of Examiners* or *Board* means the Board of Examiners of Bar Pilots for the Port of New Orleans, established in R.S. 34:942.

C. *Bar Pilot* or *Pilot* means a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

D. *Services* of a bar pilot means any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

E. *Waterways* means the entrance into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

§604. Enforcement

Pursuant to R.S. 34:945(C)(3), the board of examiners shall have the authority to impose a fine of not more than $500 upon any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with the Administrative Procedure Act, a bar pilot is found in violation of any rule or regulation adopted by the board of examiners.

§605. Severability

If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

§606. Effective Date

These rules and regulations shall be in full force and effective 90 days after final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations, as well as any amendments, after the rules and regulations are adopted by the board of examiners.

Part B. Standards of Conduct; Proper and Safe Pilotage

§701. Adoption of Inland Navigational Rules

For those waters on which the inland rules apply within the jurisdiction of the bar pilots, the board of examiners hereby adopts, by reference and in its entirety, the Inland Navigational Rules at 33 U.S.C. §2001, et seq. The board of examiners also adopts the navigation safety standards set forth in Title 33 CFR Part 164(p). All bar pilots and bar pilot applicants shall be subject to these inland navigational rules and safety standards as adopted herein by reference.

§702. Ships Required to Take Pilots

All ships and vessels inward or outward bound throughout the entrances of the Mississippi River or other inland waterway connecting the Port of New Orleans with the Gulf of Mexico, or other outside waters, except those of 100 tons or less lawfully engaged in the coasting trade of the United States, shall take a bar pilot when one is offered; and any ship or vessel refusing or failing to take a pilot shall be liable to the pilot thus offering for pilotage.

§703. Pilots, Duty to Remain On Board Ship Until Crossing Bar

When boarding an outward bound ship or vessel at the boarding stations bar pilots shall remain on board the ship until she crosses the bar, unless permission is given by the master for the pilot to absent himself from the ship or vessel.

§704. Acting as Pilot Without License; Penalty

No person who is not commissioned a bar pilot shall board any ship or vessel required to take a bar pilot, for the purpose of piloting, or to pilot or attempt to pilot the same; and no person or pilot shall board any such ship or vessel for the purpose of piloting, except from the pilot boats on the bar pilot stations. Whoever violates the provisions of this Section shall be fined not less than $1,500 nor more than $5,000, or may be imprisoned for not more than six months, or both.

§705. Pilot's Duty to Exhibit License

Whoever offers to pilot a ship or other vessel shall, if required, exhibit to the commander thereof his identification card as a bar pilot, attested to by the chairman of the board of examiners; and if he refuses or neglects to do so, he shall not be entitled to any remuneration for any service he may render as pilot.

§706. Employing Pilot Without Licenses; Liability of Vessel, Master or Owner

When a vessel, inward or outward bound to or from the Port of New Orleans employs as a pilot a person who is not a state commissioned bar pilot, when a bar pilot offers his services, the vessel, her captain and owners, shall be liable for a civil penalty of and shall forfeit to the state of Louisiana the sum of $15,000 with privilege on the vessel, to be recovered before any court of competent jurisdiction. An action for forfeiture under this Section may be brought by the attorney

general of Louisiana or by the Associated Branch Pilots of the Port of New Orleans. If the Associated Branch Pilots of the Port of New Orleans obtains a judgement hereunder, the court shall include in its judgement a reasonable attorney's fee.

§707. Employing Pilot Without A State Commission; Penalties

A. No master, owner, or agent of a vessel required under R.S. 34:953 to take a state commissioned bar pilot shall, when a state commissioned bar pilot offers his services, employ as a pilot a person who is not a state commissioned bar pilot.

B. Whoever violates this Section shall be subject to a fine of not less than $1,500 nor more than $5,000, or imprisoned for not more than six months, or both.

§708. Offering of Services

As used in this Subpart, reference to the offering of a bar pilot or the offering of services by a bar pilot shall mean any offering of any advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, and other navigational conditions.

§709. Prohibition of Interest of Members of Board of Commissioners of Port of New Orleans, in Pilot Boat or Pilotage

The members of the Board of Commissioners of the Port of New Orleans shall not be interested, directly or indirectly, in any bar pilot boat or pilotage.

§710. Report By Pilot

In any case where a vessel being piloted by a bar pilot shall go aground, or shall collide with any object, or shall meet with any casualty, which causes injury to persons or damage to property, the pilot shall, as soon as possible, report such incident to the board.

The board, with or without complaint made against said pilot, shall investigate the incident.

The pilot shall make a complete report to the board within 10 days after the incident. This report may either be an oral or a written report as the board deems necessary.

These rules shall apply to any bar pilot engaged in piloting within the operating territory as defined by R.S. 34:941 et seq., whether the vessel be subject to compulsory pilotage or elective pilotage.

§711. Meetings of Examiners

All meetings and notices thereof of the board of examiners shall be conducted in accordance with the Open Meetings Law (R.S. 42:4 et seq.). The board shall meet at least once each quarter and meeting shall be called in accordance with R.S. 42:7.

§712. Pilots Duty to Report

Pilots, when notified, shall report in person to the board at the time and place so designated.

§713. Pilots Summoned to Testify

Any bar pilot summoned to testify before the board shall appear in accordance with such summons and shall make answer under oath to any question put to him, touching any matter connected with the pilot's service or of the pilot grounds over which he is commissioned to pilot.

§714. Record Keeping

The board of examiners shall maintain records and conduct its hearings in accordance with R.S. 49:950, et seq.

Part C. Drug and Alcohol Policy

§801. Application

The board of examiners hereby adopts the following rules and regulations relating to drug and alcohol abuse policy applicable to all state licensed bar pilots pursuant to the provisions of R.S. 34:941 et seq.

§802. Statement of Findings and Purposes

A. The board of examiners of bar pilots for the Port of New Orleans, Louisiana, (hereinafter "board") has always had a strong commitment to the pilot members of the Associated Branch Pilots for the Port of New Orleans to provide a safe work place and to establish programs promoting high standards of bar pilot health. Consistent with the spirit and intent of this commitment the board has established this policy regarding drug and alcohol abuse. Its goal will continue to be one of establishing and maintaining a work environment that is free from the effects of alcohol and drug abuse.

B. While the board has no intention of intruding into the private lives of bar pilots, the board does expect bar pilots to report for work in a condition to perform their duties. The board recognizes that off-the-job, as well as on-the-job, involvement with alcohol and drugs can have an impact on the work place and on a bar pilot's ability to accomplish our goal of an alcohol- and drug-free work environment.

§803. Bar Pilots' Assistance Program

A. Establishment. The board has designed a Bar Pilot's Assistance Program (BPAP) to provide help for any bar pilot whose personal alcohol or drug abuse problems may seriously affect his or her ability to function on the job, at home and in society.

B. Eligibility. The BPAP is available to all bar pilots and their spouses because an alcohol or drug abuse problem of a spouse may also affect a bar pilot's work and general well-being.

C. Procedure

(1) At times, people find the solution to their own problems. When this cannot be accomplished, a BPAP staff person will discuss the bar pilot's problem with him and put him in touch with appropriate professional sources.

(2) The bar pilot or spouse will then be advised of available alternatives for treatment, counseling or help, and be assisted in arranging an appointment. When an eligible person requests assistance, that person decides whether or not he or she wants to pursue the recommendation.

(3) The BPAP will either provide assistance by telephone or will arrange for a confidential consultation in their private offices.

D. Costs. If the counseled person needs to be referred to resources outside the BPAP, then he or she is responsible for all fees.

E. Confidentiality. A bar pilot's right to confidentiality and privacy in the BPAP is recognized. All information regarding referral, evaluation, and treatment will be maintained in a confidential manner and no BPAP matters will be entered in a bar pilot's personal file except as is mandated by law. A request for evaluation, diagnosis, information, or treatment will not affect this board's actions or recommendations.

§804. Definitions

As used in this part:

A. *Alcoholic Beverage* means any fluid, or solid capable of being converted into fluid, suitable for human consumption, which contains ethanol.

B. *Drug* refers to all controlled dangerous substances as defined in R.S. 40:961(7). Some of the drugs which are illegal under federal, state, or local laws include, among others, marijuana, heroin, hashish, cocaine, hallucinogens, and depressants and stimulants not prescribed for current personal treatment by an accredited physician.

C. *Prescription Medication* means any medication distributed by the authorization of a licensed physician as defined in R.S. 40:961(30).

§805. Prohibitions and Requirements of the Policy

A bar pilot who is under the influence of alcohol or drugs, or who possesses or uses alcohol or drugs on the job, has the potential for interfering with his own safety as well as that of the ship he is piloting and other vessels in the area, property, and personnel. Consistent with existing board practices, such conditions shall be proper cause for disciplinary action up, to and including loss of state license as a bar pilot.

B. (1) Off-the-job drug or alcohol abuse use that could adversely affect a bar pilot's job performance or could jeopardize the safety of others shall be proper cause for administrative or disciplinary action up to and including recommendation for revocation of a bar pilot license.

(2) Bar pilots who are arrested for off-the-job drug or alcohol activity may be considered to be in violation of this policy. In deciding what action to take, the board will take into consideration the nature of the charges, the bar pilot's overall job performance as a pilot and other factors relative to the impact of the bar pilot's arrest upon the conduct of bar pilotage and the safety threat posed to the public by the specific activity.

C. (1) A pilot shall be free of use of any drug as defined in §804(B), but excluding prescription medication as defined in §804(C), so long as such use of prescription medication does not impair the competence of the pilot to discharge his duties.

(2) Bar pilots undergoing prescribed medical treatment with a controlled substance should report this treatment to the president of the board and to the associated branch pilots' doctor. The use of controlled substances as part of a prescribed medical treatment program is naturally not grounds for disciplinary action, although it is important for the board to know such use is occurring.

D. A bar pilot who voluntarily requests assistance in dealing with a personal drug or alcohol abuse problem may participate in the BPAP without the board taking action to fine or recommend action against a bar pilot, provided he stops any and all involvement with alcohol or drugs. Volunteering to participate in the BPAP will not prevent disciplinary action for a violation of this policy which has already occurred.

E. (1) Narcotics or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana shall not be brought aboard or caused to be brought aboard any vessel no matter by whom owned, or property owned or leased by the associated branch pilots.

(2) Persons, or property, coming aboard any such vessel or property will be subject to inspection.

(3) The board will cooperate fully with appropriate law enforcement agencies by reporting information with respect to the violation of laws regarding illegal substances.

§806. Drug Testing

A. Drugs investigated. All bar pilots shall be subject to testing for the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine.

B. Types of testing

(1) All bar pilots shall submit to reasonable scientific testing for drugs when directed by the board. All procedures and activities conducted in connection with such testing shall comply with R.S. 49:1001 - 1015, as those provisions may be amended from time to time.

(2) A bar pilot shall be required to submit a urine specimen to be tested for the presence of drugs under the following circumstances:

(a) prior to recommendation for appointment, as a part of the physical exam required in §506(7) of these rules and regulations;

(b) after recommendation, whenever the pilot is required by the board to undergo a physical examination;

(c) upon written complaint signed by the complainant in accordance with §901-§1003 of the rules an regulations of the Board of Review of Bar Pilots for the Port of New Orleans;

(d) when the pilot is reasonably suspected of using drugs in violation of this policy;

(e) at random at the discretion of the board; and

(f) when the pilot is determined to be directly involved in a marine casualty or accident during the course of his activities as a pilot that results in:

(i) one or more deaths;

(ii) injury to any person which requires professional medical treatment beyond first aid;

(iii) damage to property in excess of $100,000; or

(iv) actual or constructive loss of any vessel.

C. The board may designate a testing agency to perform any scientific test(s) necessary to detect the presence of drugs or their metabolites in a pilot's system.

§807. Alcohol Testing

A. The board of examiners may require a pilot to submit to a blood alcohol test under the following circumstances:

(1) upon written complaint signed by the complainant in accordance with §901-§1003 of the rules and regulations of the Board of Review of Bar Pilots of the Port of New Orleans;

(2) when there exists reasonable suspicion that a pilot is performing his duties while under the influence of alcohol; or

(3) when the pilot is determined to be directly involved in a marine casualty or accident of the type described in §806(B)(2)(d).

§808. Violations of the Policy

A. Any pilot found to be in violation of this policy may be reprimanded, fined, evaluated, and treated for drug use and have his commission suspended or revoked as provided by R.S. 34:945 and 962.

B. Any bar pilot reasonably suspected of bringing on board any vessel, no matter by whom owned, or property owned or leased by the association, or causing to bring on board a vessel or property owned or leased by the association, any narcotic or any other controlled dangerous substance made illegal by the laws of the United States or the state of Louisiana will be subject to disciplinary action either by the board or, upon recommendation of the board, by the governor of Louisiana.

C. A pilot shall be suspended from performing the duties of a pilot pending a hearing pursuant to R.S. 34:945 and 962 if:

(1) he tests positive for any drug listed in § 806(A);

(2) he uses any drug in violation of §805(C);

(3) he refuses to submit to reasonable scientific testing for drugs, fails to cooperate fully with the testing procedures, or in any way tries to alter the test results;

(4) tests positive for alcohol; or

(5) refuses to submit to a blood alcohol test, fails to cooperate fully with the testing procedure, or in any way tries to alter the test results.

D. Any pilot who is required to undergo evaluation or treatment for alcoholism or drug abuse shall do so at his own personal expense and responsibility; the physician, as well as the evaluation and treatment facility, must be approved by the board.

E. Any pilot who believes he would be in violation of these rules if he were to perform his duties as a bar pilot is obligated to remove himself from duty.

§809. Test Results

A. All drug test results shall be reviewed by a medical review officer in accordance with R.S. 49:1007.

B. Any pilot, confirmed positive, upon his written request, shall have the right of access, within seven working days of actual notice to him of his test results, to records relating to his drug tests and any records relating to the results of any relevant certification, review, or suspension/revocation-of-certification proceedings.

C. The results of the drug testing conducted pursuant to this policy and all information, interviews, reports, statements and memoranda relating to the drug testing shall, in accordance with R.S. 49:1012, be confidential and disclosed only to the board of examiners and the pilot tested, except that:

(1) the board of examiners may report the results to the governor; and

(2) in the event that the board of examiners determines that a hearing is required pursuant to R.S. 34:991 or 1001, there shall be no requirement of confidentiality in connection with such hearing.

Gary G. Mott
President

RULE

Board of Review of the Associated Branch Pilots for the Port of New Orleans

In accordance with R.S. 34:962(B) and the provisions of the Administrative Procedure Act, The Board of Review of the Associated Branch Pilots for the Port of New Orleans, Louisiana has adopted rules regarding complaint procedures.

NAVIGATION AND SHIPPING
PILOTS
Part A. General Provisions

§901. Authority

As mandated by R.S. 34:962(B)(1), these rules and regulations are issued in accordance with the Administrative Procedure Act under R.S. 49:950, et seq. for the purpose of outlining the procedures for the hearing of complaints by the board of review of misconduct of any bar pilot, for his carelessness or incompetence in handling a vessel he is piloting, or for soliciting business or other employment for himself or others while on board any vessel.

§902. Purpose

The purposes of these rules and regulations are as follows:

A. To establish procedures and guidelines for the board of review to hear complaints of misconduct of any bar pilot, for his carelessness or incompetence in handling a vessel he is piloting.

B. To establish procedures and guidelines for the board of review to hear complaints of misconduct of any bar pilot, for soliciting business or other employment for himself or others while on board any vessel.

§903. Definitions

The following terms as used in these rules and regulations, unless redefined by a particular part hereof, shall have the following meanings:

A. *Administrative Procedure Act* means the Louisiana Administrative Procedure Act under R.S. 49:950 et seq.

B. *Board of Review* or *Board* means the Board of Review of the Associated Branch Pilots for the Port of New Orleans, established in R.S. 34:962.

C. *Bar Pilot* or *Pilot* means a bar pilot for the Port of New Orleans, as designated in R.S. 34:943.

D. *Services* of a bar pilot means the advice or assistance with respect to pilotage by the commissioned bar pilot or by his authorized representative, including but not limited to advice concerning weather, channel conditions, or other navigational conditions.

E. *Waterways* means the entrances into and out of the Mississippi River and into and out of the entrances of all other waterways connecting the Port of New Orleans with the outside waters of the Gulf of Mexico, including the entrance of the New Orleans Tidewater Channel at the western shore of the Chandeleur Sound off Point Chicot.

§904. Enforcement

Pursuant to R.S. 34:962(B)(3), the board of review shall have the authority to impose a fine of not more than $500 upon any bar pilot, to reprimand or remove from a vessel any bar pilot, or to recommend to the governor that the commission of any bar pilot be suspended or revoked, if after a hearing conducted in accordance with the Administrative Procedure Act, a bar pilot is found in violation of any rules and regulations adopted by the board of review.

§905. Severability

If any provision of these rules and regulations is held to be invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end, provisions of these rules and regulations are declared to be severable.

§906. Effective Date

These rules and regulations shall be in full force and effective upon final publication in the *Louisiana Register*. All bar pilots and bar pilot candidates shall be provided with a copy of these rules and regulations, as well as any amendments, after the rules and regulations are adopted by the board of review.

Part B. Complaint Hearings

§1001. Disciplinary Hearings; Reports; Disciplinary Actions; Notice

A. A hearing, pursuant to the Administrative Procedure Act, shall be held by the board of review when any per-

son having cause to complain testifies in a sworn complaint filed at the location designated by resolution of the board of review that a bar pilot:

(1) was guilty of misconduct, carelessness, or incompetence in the performance of his duties;

(2) has solicited the owners, agents, masters, officers, crew, or passengers of any vessel required by these statutes to employ a pilot, for business or employment of any kind or nature whatsoever, for himself or for any other person.

(3) has failed to timely offer pilot services to a vessel without just cause.

B. The board of review may report all findings and conclusions of the hearing to the governor, and shall report all findings and conclusions of the hearing to the complaining party, along with any action taken by the board against the bar pilot pursuant to its conclusions. The board in its discretion may acquit the pilot of any wrongdoing, fine or reprimand the pilot, or recommend to the governor that the pilot's state commission be suspended or revoked.

C. If the board of review determines to recommend suspension or revocation of a pilot's commission, prior to forwarding the recommendation to the governor, the board shall notify the pilot, by certified mail, return receipt requested, of the determination, and permit the pilot to request a hearing as hereinafter provided.

(1) Within 30 days after receipt of the notice, the bar pilot may request a hearing before the Board of Review and the Board of Commissioners of the Port of New Orleans, by submitting a written request for the hearing to the presidents of the respective boards. Upon receipt of such a request, presidents of the respective boards shall call a joint hearing within a reasonable time. If, after the hearing is held, the board and the commission concur on their findings and recommendations, a joint report shall be made to the governor. If the boards do not concur on the findings or recommendations each board shall make a separate report to the governor.

(2) If a request for a joint hearing is not made timely, the board of review shall report its findings and recommendations to the governor.

§1002. Summons to Testify

The board of review has the right to subpoena documents and witnesses pursuant to the provisions of R.S. 49:956 and investigate any complaint made to it.

§1003. Annual Report; Records; Copies of Regulations

The board of review shall also:

(1) Make an annual report to the Louisiana Department of Transportation and Development on accident investigations that identify the accident, the pilot involved, the cost of each accident and action taken by the board of review.

(2) Keep a permanent, detailed accident record on each pilot and accident investigation files for as long as the pilot is piloting.

(3) Provide all bar pilots with copies of the rules and regulations.

James Fitzmorris
President

RULE

Department of Public Safety and Corrections
Corrections Services

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, adopts the following rule relative to the death penalty.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
Part I. Corrections

Chapter 1. Secretary's Office

§103. Death Penalty

A. Purpose. The purpose of this regulation is to set forth procedures to be followed for lethal injection of those individuals executed on or after September 15, 1991.

B. Responsibility. The secretary, deputy secretary, assistant secretary for the Office of Adult Services and the wardens of Louisiana State Penitentiary and Louisiana Correctional Institute for Women are responsible for ensuring implementation of this regulation.

C. Incarceration Prior to Execution. Male offenders sentenced to death shall be incarcerated at the Louisiana State Penitentiary at Angola, Louisiana. Female offenders sentenced to death shall be incarcerated at the Louisiana Correctional Institute for Women at St. Gabriel, Louisiana. Until the time for execution, the warden shall incarcerate the offender in a manner affording maximum protection to the general public, the employees of the department, and the security of the institution. Female offenders shall be transported to Louisiana State Penitentiary after 6 p.m. on the day immediately prior to the execution date.

D. Visits

1. Offenders sentenced to death shall be afforded same visiting privileges as other offenders in the same institution. In addition, during the final 72 hours before the scheduled execution, the warden will approve special visits for the following:

a. Clergy;

b. Family member(s) and friend(s) on approved visiting list;

c. Attorney;

2. Except for a priest, minister, religious advisor, or attorney, visits will terminate by 6 p.m. on the day immediately prior to the execution date. Visits with a priest, minister, religious advisor, or attorney will terminate no later than 11:30 p.m. on the evening preceding the execution.

E. Media Access

1. Properly credentialed reporters may contact the office of the warden to request interviews. If the warden, offender, and (if represented by counsel) his/her attorney consent, the interview shall be scheduled for a time convenient to the institution.

2. Should the demand for interviews be great, the warden may set a day and time for all interviews to be conducted and may specify whether interviews will be done individually or in "press conference" fashion.

F. Pre-Execution Activities

1. The warden shall select any appropriate area to serve as a press room and for any mobile press units. Press representatives, except those selected as witnesses, will not

be permitted in other areas of the penitentiary from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate.

2. The execution room shall be off-limits to unauthorized offenders and employees from 8 a.m. on the day preceding the execution until such time after the execution as the warden deems appropriate. The execution room shall also be off-limits to the public and press from five days before the execution until such time after the execution as the warden deems appropriate.

3. All persons selected as witnesses will sign copies of the witness agreement prior to being transported to the execution room.

G. Execution

1. Time and Place

a. The execution shall take place at Louisiana State Penitentiary, Angola, Louisiana, between 12 midnight and 1:00 a.m., barring unforeseen delays. In no event may the execution be conducted after 3 a.m. (R.S. 15:569.1).

b. At 12:01 a.m., the witnesses shall be escorted to the execution room.

2. Witnesses

a. The following are the only persons, other than the condemned, who will be admitted to the execution room during the execution:

*i. the warden of Louisiana State Penitentiary or his designee;

*ii. the coroner of West Feliciana Parish or his deputy;

*iii. a physician chosen by the warden;

*iv. a competent person selected by the warden to administer the lethal injection;

*v. a priest or minister, or religious advisor, if the offender so requests;

*These and no less than five and no more than seven additional witnesses are required, by law, to be present (R.S. 15:570).

vi. three members of the news media, as follows: one qualified Louisiana representative from the Associated Press, one representative selected by lot from Louisiana media persons from the parish where the crime was committed and one representative selected by lot from all other Louisiana media persons requesting to be present. Those so designated must agree to act as pool reporters for the remainder of the media present and meet with all media representatives present immediately after the execution; and

vii. a minimum of two and a maximum of four additional witnesses selected by the secretary of the Department of Public Safety and Corrections from persons who, in the secretary's discretion, have a legitimate interest. The secretary may designate the warden of the Louisiana Correctional Institute for Women to serve as a witness in the event a female offender is executed.

b. All witnesses must be residents of the State of Louisiana, over 18 years of age and all must agree to sign the report of the execution (R.S. 15:570 - 571).

c. No cameras or recording devices, either audio or video, will be permitted in the execution room (R.S. 15:569).

3. All arrangements for carrying out the execution shall be completed by 12 midnight. At 11:45 p.m. on the day preceding the execution, the warden shall order the offender to be brought to the execution room where the offender will be strapped to the execution table at which time the person designated by the warden will insert intravenous catheters. The witnesses will enter the witness room at 12:01 a.m., where they will be given a copy of the inmate's written last statement. The warden shall then order the person selected to administer the lethal injection to proceed with the execution.

4. The person designated by the warden will administer by intravenous injection a substance(s) in a lethal quantity into the body of the offender until such person is dead.

5. At the conclusion of the execution, the coroner or his deputy shall pronounce the offender dead. The offender shall then be immediately taken to a waiting ambulance for transportation to a place designated by the next of kin or in accordance with other arrangements made prior to the execution.

6. The warden will then make a written report reciting the manner and date of the execution. The warden and all witnesses shall sign the report and it shall be filed with the clerk of court in the parish where the sentence was originally imposed.

7. No employee, including employee witnesses to the execution, except the warden or his designated representative, shall communicate with the press regarding any aspect of the execution, except as required by law.

H. The effective date of this regulation is January 20, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:567-15:571 (as amended by Act No. 717 of the 1990 Regular Session of the Louisiana Legislature and by Act No. 159 of the 1991 Regular Session of the Louisiana Legislature), *Garret v. Estelle* 556 F.2d 1274 (5th Cir., 1977).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Secretary, LR 6:10 (January 1980), amended LR 7:177 (April 1981) and by the Department of Public Safety and Corrections, Corrections Services, LR 17:202 (February 1991), amended LR 18: (January 1992).

Bruce N. Lynn
Secretary

RULE

Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section

(**Editor's Note:** The following Section of a Department of Public Safety Rule, as appeared in the *Louisiana Register*, Vol. 11, November, 1991, page 1116, is being republished to correct a typographical error.)

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage by Public Highway

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons or vehicles:

1. to which the federal regulations apply;

2. engaged in the transportation of hazardous materials within this state.

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons or vehicles not subject to the federal regulations if the operated vehicle has a single or combined gross vehicle weight rating greater than 20,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons or vehicles set forth in Subsections A and B shall be amended as follows.

1. for the adopted regulations governing all carriers, drivers or vehicles as specified in Subchapter B, substitute "20,000 pounds" for all references made to "10,000 pounds";

2. Part 391.11(b)(1) shall read, "is at least 21 years old, or is at least 18 years old and lawfully possesses an appropriately classified driver's license secured from the Louisiana Department of Public Safety and Corrections";

3. if a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to January 20, 1988, such driver is exempt from complying with Sections 391.21, 391.23, 391.33 and 391.41(b)(1), (2), (3), (4), (5), (10) and (11). The medical examiner's certificate must display upon its face the inscription "MEDICALLY UNQUALIFIED OUTSIDE LOUISIANA" when a driver is qualified in accordance with the provisions stated herein. However, should such a driver be no longer regularly employed by the carrier that qualified the driver for exemption from any of the noted regulations, the driver shall not reapply, transfer or be subject to the provisions stated herein;

4. when applicable, the words "Louisiana Department of Public Safety and Corrections" and/or "Office of State Police" shall be substituted where "U.S. Department of Transportation," "Federal Highway Administration," "Federal Highway Administrator," "Director," "Bureau of Motor Carrier Safety" or "Office of Motor Carrier Safety" appear;

5. where special U.S. Department of Transportation forms or procedures are specified or required, substitute the compatible Louisiana Department of Public Safety and Corrections forms or procedures if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:298 (May 1988), LR 17:1115 (November 1991), repromulgated LR 18: (January 1992).

Marlin A. Flores
Deputy Secretary

RULE

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services, adopts the following rule in the Child Protection Investigation Program.

This rule is mandated by the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Article 616, and Title XII, Adoption of Children, Chapter 2, Article 1173.

The Department of Social Services, Office of Community Services, establishes and will maintain a central registry of all reported cases of child abuse and neglect. The purpose of the central registry is to compile information of past reports of child abuse or neglect thus enabling child protection investigation staff to conduct a more complete evaluation of current reports of suspected abuse or neglect of children. All records of reports of child abuse or neglect are confidential in accordance with R.S. 46:56.

Louisiana Revised Statute 14:403 (H) requires the maintenance of a central registry of all reported cases. As part of the investigation, the Office of Community Services Child Protection Investigation worker shall provide to parents written notice of the registry and the rules governing maintenance and expungement of registry records. The central registry will be purged of records of invalid reports of suspected child abuse or neglect after three years, if no subsequent report is received. Records of reports of suspected child abuse or neglect found to be valid will be maintained until the youngest child in the victim's family reaches the age of 18. Records of reports of child fatalities medically determined to have been caused by child abuse or neglect will be maintained indefinitely. Any person whose name is included on the central registry may petition the court in the parish in which the investigation was conducted to request an expungement order. The Office of Community Services will expunge the petitioner's name upon receipt of a court order.

The central registry shall release information regarding cases of child abuse or neglect to other states' child welfare agencies, upon formal inquiry by that agency, when the inquiry is made pursuant to an ongoing Child Protection Investigation in the requesting state, in accordance with R.S. 46:56 F (4)(a). Information released to such agencies is confidential and will not be released to sources outside the other state's child welfare agency. Additionally, the Office of Community Services will provide central registry records checks for independent adoptions in accordance with the Louisiana Children's Code.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Children's Code, Title VI, Child in Need of Care, Chapter 5, Article 616, and Title XII, Adoption of Children, Chapter 2, Article 1173.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 18: (January 1992).

May Nelson
Secretary

RULE

Department of Social Services
Office of Community Services

The Department of Social Services, Office of Community Services, has repealed those rules listed below. The listing of rules indicates the issue of the *Louisiana Register* in

which they were originally published and a statement of their topic.

LR 2:36 (January 1976) - Policy relative to confidentiality of information.

LR 2:272 (September 1976) - Eligibility criteria for day care services.

LR 2:318 (October 1976) - Amendments to Title XX Program Plan.

LR 3:495 (December 1977) - Changes in method of reimbursing foster parents.

LR 4:388 (October 1978) - Rules and regulations to implement a program for subsidizing the adoption of children with special needs.

LR 4:512 (December 1978) - Amendments to existing rules and regulations relative to payment of cost related reimbursement rates to facilities providing care and treatment for children.

LR 5:7 (January 1979) - Monthly rate of payment to licensed vendor day care centers and family day care homes.

LR 5:175 (July 1979) - Manual of rules and policies and procedures for the implementation of the client placement system.

LR 5:388 (November 1979) - Policies and procedures to implement a program of community respite care services.

LR 6:730 (December 1980) - Monthly maintenance subsidy rates in the subsidized adoption program for special needs children.

LR 6:731 (December 1980) - Rate schedule for provision of day care services.

LR 7:189 (April 1981) - Fees or rates paid for foster care services.

LR 7:340 (July 1981) - Low Income Home Energy Assistance Program.

LR 7:408 (August 1981) - Amendments to Child Placement Program policy.

LR 7:409 (August 1981) - Guidelines for Respite Care Program.

LR 7:629 (December 1981) - Vendor payments to licensed day care centers and family care homes.

LR 7:629 (December 1981) - Eligibility in the Adoption Subsidy Program.

LR 7:629 (December 1981) - Fees or rates for foster care services.

LR 8:76 (February 1982) - Low Income Home Energy Assistance Program.

LR 8:76 (February 1982) - Client eligibility for services provided in the Client Placement Program.

LR 8:277 (June 1982) - Amendments to Client Placement Program policy.

LR 8:599 (November 1982) - Fees or rates paid for foster care services.

LR 9:68 (February 1983) - Fees or rates paid for Title XX Vendor Payment Day Care Services.

LR 9:415 (June 1983) - Rules relative to voluntary registration of adopted children and/or biological parents of adopted children.

LR 9:563 (August 1983) - Fees or rates paid for Title XX vendor payment day care services.

LR 9:685 (October 1983) - Low Income Home Energy Assistance Program.

LR 10:89 (February 1984) - Policies and procedures for Adult Protective Services Program.

LR 11:349 (April 1985) - Amendment to State Plan for the Low Income Home Energy Assistance Program.

LR 11:865 (September 1985) - Amendment to State Plan for the Low Income Home Energy Assistance Program.

LR 13:354 (June 1987) - Title XX vendor and purchase of service contracted day care services.

LR 14:91 (February 1988) - Policy limiting fee paid to private attorneys for work performed on adoptions.

LR 14:91 (February 1988) - Monthly maintenance payments to Title IV-E eligible adoption subsidy recipients.

LR 16:91 (April 1990) - Weatherization Assistance Program State Plan.

May Nelson
Secretary

RULE

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III., Subpart 5, Job Opportunities and Basic Skills Training Program.

This rule is mandated by Act 1033 of the 1991 Regular Session of the Louisiana Legislature.

Title 67
DEPARTMENT OF SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and Basic Skills Training Program
Chapter 29. Organization
Subchapter A. Designation and Authority of State Agency
§2901. Implementation

* * *

B. Participation Requirements

* * *

3. Individual Participation Requirements

* * *

b. Regulations in 45 CFR 250.30 (b)(9)(i) mandate that all non-exempt applicants and recipients with children over age three, or an age less than three but not less than one, participate in the JOBS program as an eligibility condition for receipt of AFDC benefits. Louisiana will exercise the option to require participation of parents with children over age one. This age limitation is overridden in the case of the custodial parent under age 20 who has not completed high school, since the legislation requires that such an individual participate in the education component of the program regardless of the age of the dependent child.

* * *

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 250.30, 45 CFR 250.33 and R.S. 46:460.3(A)(3).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 16:626 (July 1990), amended LR 16:1064 (December 1990), LR 17:1227 (December 1991), LR 18: (January 1992).

May Nelson
Secretary

RULE

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

The board of trustees of the State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule.

State Employees' Retirement System

Policy for Withdrawals From Drop Accounts

When a participant in the Deferred Retirement Option Plan terminates state employment, the amount accumulated in the individual's DROP account may be withdrawn in any of the following methods:

1. Lump Sum Withdrawal

The individual may withdraw the entire amount accumulated in the DROP account.

2. Monthly Withdrawal

The individual may receive a check each month until all the funds in the account are disbursed. The monthly amount to be withdrawn may be determined by: (a) the individual may establish an amount to be withdrawn on a monthly basis; or (b) the retirement system can determine a level amount to be paid monthly over the expected lifetime of the individual. This method would be similar to an annuity payment.

3. Annual Withdrawal-Amount Established By Individual

The individual may establish an amount to be withdrawn once each year. The payments will be made in February of each year. Changes in the amount will be provided to LASERS in writing no later than January 15.

4. Delayed Withdrawal

The individual may choose not to withdraw the DROP account until some later date; however, the account must be disbursed within the time period shown below.

The DROP account must be totally disbursed within the expected lifetime of the individual in accordance with federal laws. The expected lifetime is determined based on the age of the individual on the date of termination. All funds from the DROP account must be withdrawn in accordance with the following schedule:

AGE AT TERMINATION	AGE OF FINAL DISTRIBUTION
55 and under	75
56-60	77
61-66	80
67-70	81
71 and older	add 10 years to age

Disbursements from the DROP accounts will be made on the sixth day of each month; if the sixth is a weekend or holiday, the disbursement will be made on the following workday.

Interest will be based on the balance of the account at the end of each month.

The type of withdrawal and/or the amount may be changed upon written notice. Requests for change received in the office of LASERS by the fifteenth of one month will be effective the following month.

The individual must indicate whether federal income taxes should be withheld from the amount disbursed. The tax instructions must be provided by the individual before a disbursement can be made.

The forms for selecting the method of disbursement and the tax instructions will be provided to the individual at the time of termination.

Thomas D. Burbank
Executive Director

RULE

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

The board of trustees of the Louisiana State Employees' Retirement System hereby gives notice in accordance with law that it has adopted the following rule.

Rules for Election of Trustees

Rule II.(2) is amended to read as follows:

II.(2) No department may be represented by more than two trustees. Department, for board election purposes, means the twenty departments of the Executive Branch of state government as defined in R.S. 36:4(A), the Office of the Governor, the Office of the Lieutenant Governor, the Judicial Branch, and the Legislative Branch of state government.

Thomas D. Burbank, Jr.
Executive Director

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission hereby adopts rules and regulations establishing the design and use of a "Commercial Fisherman's Sales Card" and a four-part dealer receipt form to be used by wholesale/retail dealers who purchase fish from commercial fishermen.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 2. General Provision

§201. Commercial Fisherman's Sales Card; Dealer Receipt Form

The proposed design and use are as follows.

A. The "Commercial Fisherman's Sales Card" shall be provided by the department in lieu of the commercial fisherman's license. The card will be embossed with the following information:

1. commercial fisherman's name;
2. commercial license number;
3. commercial fisherman's social security number;
4. expiration date;
5. residency status.

B. The card shall be presented by the commercial fisherman to the wholesale/retail dealer at the time of sale.

C. The dealer receipt form shall be a four-part numbered form provided by the department that will allow the

department to obtain the following information from each sale.

1. commercial fisherman's license number;
2. commercial fisherman's license expiration date;
3. wholesale/retail dealer's name;
4. wholesale/retail dealer's license number;
5. information on commercial gear used;
6. information on time fished;
7. information on location fished and fish landed;
8. species purchased;
9. amount of each species purchased;
10. size and condition of each species landed;
11. transaction date.

D. The dealer and fisherman's copies of the receipt will provide space to record dollar value of the sale.

E. The dealer receipt form shall be used when fish are purchased or received from commercial fishermen. The portions of the dealer receipt form designated as "Department Copy" shall be returned to the department by the 10th of each month to include purchases made during the previous month. Completed receipt forms shall be mailed to a predetermined address designated by the department. Commercial wholesale/retail dealers are responsible for obtaining dealer receipt forms from the department and are responsible for filling in all information on the form. Imprinting machines will be sold by the department to the dealers at the department's total cost. Only department issued or approved imprinting machines shall be used.

F. Effective date of Subsections A and B of this Section is upon publication in the *Louisiana Register*. Effective date for Subsections C, D and E of this Section will be July 1, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:303.7.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18: (January 1992).

James H. Jenkins, Jr.
Chairman

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission hereby adopts rules and regulations establishing the design and use of a "Commercial Fisherman's Sales Report Form" that shall be filed monthly by commercial fishermen that sell fish to anyone other than a resident wholesale/retail dealer.

Title 76
WILDLIFE AND FISHERIES
Part VII. Fish and Other Aquatic Life

Chapter 2. General Provision
§203. Commercial Fisherman's Sales Report Form

The proposed design and use are as follows:

A. The report form shall be a four-part numbered form provided by the department that will allow the department to obtain the following information from each sale by commercial fishermen to anyone other than resident wholesale/retail dealers.

1. Commercial fisherman's license number
2. Species sold to anyone other than a resident wholesale/retail dealer
3. Amount of each species sold
4. Size and condition of each species sold
5. Transaction date

B. The commercial fisherman's copies of the report form will provide space to record dollar value of the sale.

C. The report form shall be used when fish are sold by commercial fishermen to anyone other than a resident wholesale/retail dealer. The portions of the report form designated as "department copy" shall be returned to the department by the 10th of each month to include sales during the previous month. Completed report forms shall be mailed to predetermined address designated by the department. Commercial fishermen are responsible for obtaining report forms from the department and are responsible for filling in all of the information on the form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:345(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 18: (January 1992).

James H. Jenkins, Jr.
Chairman

RULE

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

The Louisiana Wildlife and Fisheries Commission hereby adopts rules and regulations to preserve the confidentiality of all fishery dependent data, information, or statistics submitted to or collected by the Department of Wildlife and Fisheries, its agencies or instrumentalities.

Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties
Subchapter F. Confidential Fishing Data
§321. Records; Confidentiality

All fishery dependent data; that is, only data collected from individuals or firms, collected or otherwise obtained by personnel or instrumentalities of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission in the course of their duties are confidential and are not to be divulged, except in aggregate form, to any person except employees or instrumentalities of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission or the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS), or legislative committees and their staffs, whose duties require this information, except as authorized by law or court order. For the purposes of this rule fishery dependent data shall be collected under authority of Part VI of Title 56 of the Revised Statutes except the names,

addresses, and license numbers of licensed fishermen. Aggregate form, with respect to data, shall mean data or information submitted by three or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business or any such person. Neither employees or instrumentalities of the Louisiana Department of Wildlife and Fisheries nor members of the Wildlife and Fisheries Commission shall release confidential information to another person, firm, or state or federal agencies, except NOAA/NMFS as stated above or state agencies through written agreements with the Department of Wildlife and Fisheries that have comparable confidentiality provisions, and to the extent possible, will oppose other agency and congressional subpoenas to obtain confidential information. Neither the Louisiana Department of Wildlife and Fisheries nor its instrumentalities nor members of the Wildlife and Fisheries Commission, nor legislative committees and their staffs, will disclose confidential statistics under court order without specific approval by the State Attorney General's Office. These rules and regulations provide for compliance with all procedures set forth by the United States Department of Commerce, or its agencies or instrumentalities, for the confidentiality of fishing statistics collected from individuals or firms by that department, its agencies or instrumentalities. Employees or instrumentalities of the Louisiana Department of Wildlife and Fisheries or members of the Wildlife and Fisheries Commission who have access to confidential statistics shall be subject to the provisions and penalties for unauthorized disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:301.4.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18: (January 1992).

James H. Jenkins, Jr.
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Civil Service
Board of Ethics for Elected Officials

The Board of Ethics for Elected Officials, in accordance with R.S. 49:950 et seq., hereby gives notice of its intention to adopt, by rule, a disclosure form to be filed by members or chief executive officers of local governmental depositing authorities who also serve as officers, directors or employees of banks into which agency funds are deposited. This form provides a vehicle for the reporting of information concerning such conflicts of interest to the Board of Ethics for Elected Officials.

R.S. 39:1233.1 requires the board, in accordance with the Administrative Procedure Act, to develop this disclosure form.

R.S. 39:1233.1 DISCLOSURE STATEMENT

The Louisiana Code of Governmental Ethics generally prohibits any member or chief executive officer of a local depositing authority from serving as an officer, director or employee of a bank in which agency funds are deposited. R.S. 39:1233.1 creates a narrow exception allowing a local governing authority member or chief executive officer to serve in such a capacity, despite the agency's deposit of funds in the bank, if he **(1)** recuses himself from voting in favor of any such bank and does not otherwise participate in the depositing authority's consideration of any matter affecting actual or potential business with the bank, **(2)** discloses the reason for the recusal and files these reasons, in writing, in the minutes or record of the agency, *and* **(3)** files this disclosure form with the Board of Ethics for Elected Officials or the Commission on Ethics for Public Employees within fifteen (15) days of any such recusal. **This exception may be used only by members of "local depositing authorities." Local depositing authorities are defined by law to include all parishes, municipalities, boards, commissions, sheriffs and tax collectors, judges, clerks of court, and any other public bodies or officers of any parish, municipality or township, but do not include the state, state commissions, state boards and other state agencies. Unless a written advisory opinion has been obtained from the Commission on Ethics for Public Employees, members and chief executive officers of special agencies created by, representing OR comprised of more than one political subdivision are NOT included in this exception.**

NOTE: This exception is narrow--completion of this form will not cure any violation of the Ethics Code except those situations specifically addressed in R.S. 39:1233.1.

1. Name and address of official	2. Office held (please include the office title and the political subdivision)
3. Name and address of bank	4. Position(s) held at bank (If officer, state office held. If employee, give job title.)

5. Position with bank is _____ compensated _____ noncompensated (Check one)

6. Description of transaction from which you recused yourself from participating (for example, consideration of method of selecting bank(s) to be used, selection of a bank or banks, decision affecting deposits, decision to discontinue use of a bank, etc.). Include the date of each instance on which you recused yourself from voting or otherwise participating in any such transaction.

7.

_____

Signature of official Date

Mail or hand deliver to: Ethics Administration Program, 7434 Perkins Rd., Suite B, Baton Rouge, LA 70808-4379. If you have any questions please call (504) 765-2308.

Interested persons may forward their inquiries or views on this proposed form to Maris L. McCrory, Board of Ethics for Elected Officials, 7434 Perkins Road, Suite B, Baton Rouge, LA 70808-4379, telephone: (504) 765-2308, until 4:45 p.m., March 31, 1992.

Peter G. Wright
Deputy General Counsel

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Disclosure Statement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to state government will be limited to printing the disclosure form and distributing it, by mail, to affected public officials. Implementation costs are projected to be $50 per year for the cost of printing forms on a copying machine and distributing them, assuming 100 forms per year will need to be distributed. An implementation cost of $29 per year on local governmental units is projected, based on an assumption that 100 forms per year will be returned by mail at the expense of these governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of R.S. 39:1233.1 through this disclosure form will have no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The implementation of R.S. 39:1233.1 through this disclosure form will directly benefit affected public servants by allowing them to receive compensation for services they provide as officers, directors or employees of banks in which their agencies' funds are deposited, or which seek such deposits. Previously, the receipt of such income by affected public servants was prohibited. No data exists on which an estimate of the number of affected persons or of the magnitude of the impact could be made. Implementation will also impact banks by enabling them to receive deposits of public agency funds from agencies in which their officers, directors or employees serve; other banks currently holding public agency funds may be affected by the transfer of some or all of those funds to banks now able to receive deposits as the result of this new exception, or by receiving a lesser share of public agency deposits in the future. No data exists on which an estimate of this impact could be calculated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of R.S. 39:1233.1 through this disclosure form will have the effect of increasing the number of banks eligible to compete for the banking business of affected agencies, although it will have no effect on whether the banking business of those agencies will be awarded on a competitive basis. It will also render affected public servants eligible for non-governmental service as officers, directors or employees of banks with which their agencies conduct banking business. Previously such non-governmental service was prohibited or restricted by the Louisiana Code of Governmental Ethics.

Peter G. Wright
Deputy General Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Civil Service
Commission on Ethics for Public Employees

The Department of Civil Service, Commission on Ethics for Public Employees, in accordance with R.S. 49:950 et seq., hereby gives notice of its intention to adopt a disclosure form to be filed by members or chief executive officers of local governmental depositing authorities who also serve as officers, directors or employees of banks into which agency funds are deposited. This form provides a vehicle for the reporting of information concerning such conflicts of interest to the Commission on Ethics for Public Employees.

The commission is required by R.S. 39:1233.1, in accordance with the Administrative Procedure Act, to develop this disclosure form.

R.S. 39:1233.1 DISCLOSURE STATEMENT

The Louisiana Code of Governmental Ethics generally prohibits any member or chief executive officer of a local depositing authority from serving as an officer, director or employee of a bank in which agency funds are deposited. R.S. 39:1233.1 creates a narrow exception allowing a local governing authority member or chief executive officer to serve in such a capacity, despite the agency's deposit of funds in the bank, if he **(1)** recuses himself from voting in favor of any such bank and does not otherwise participate in the depositing authority's consideration of any matter affecting actual or potential business with the bank, **(2)** discloses the reason for the recusal and files these reasons, in writing, in the minutes or record of the agency, *and* **(3)** files this disclosure form with the Board of Ethics for Elected Officials or the Commission on Ethics for Public Employees within fifteen (15) days of any such recusal. **This exception may be used only by members of "local depositing authorities." Local depositing authorities are defined by law to include all parishes, municipalities, boards, commissions, sheriffs and tax collectors, judges, clerks of court, and any other public bodies or officers of any parish, municipality or township, but do not include the state, state commissions, state boards and other state agencies. Unless a written advisory opinion has been obtained from the Commission on Ethics for Public Employees, members and chief executive officers of special agencies created by, representing OR comprised of more than one political subdivision are NOT included in this exception.**

NOTE: This exception is narrow--completion of this form will not cure any violation of the Ethics Code except those situations specifically addressed in R.S. 39:1233.1.

1. Name and address of official	2. Office held (please include the office title and the political subdivision)
3. Name and address of bank	4. Position(s) held at bank (If officer, state office held. If employee, give job title.)

5. Position with bank is _____ compensated _____ noncompensated (Check one)

6. Description of transaction from which you recused yourself from participating (for example, consideration of method of selecting bank(s) to be used, selection of a bank or banks, decision affecting deposits, decision to discontinue use of a bank, etc.). Include the date of each instance on which you recused yourself from voting or otherwise participating in any such transaction.

7.

_____

Signature of official Date

Mail or hand deliver to: Ethics Administration Program, 7434 Perkins Rd., Suite B, Baton Rouge, LA 70808-4379. If you have any questions please call (504) 765-2308.

Interested persons may forward their inquiries or views on this proposed form to Maris L. McCrory, Commission on Ethics for Public Employees, 7434 Perkins Road, Suite B, Baton Rouge, LA 70808-4379, telephone: (504) 765-2308, until 4:45 p.m., March 31, 1992.

Peter G. Wright
Deputy General Counsel

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Disclosure Statement for Public Employees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to state government will be limited to printing the disclosure form and distributing it, by mail, to affected public officials. Implementation costs are projected to be $50 per year for the cost of printing forms on a copying machine and distributing them, assuming 100 forms per year will need to be distributed. An implementation cost of $29 per year on local governmental units is projected, based on an assumption that 100 forms per year will be returned by mail at the expense of these governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The implementation of R.S. 39:1233.1 through this disclosure form will have no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The implementation of R.S. 39:1233.1 through this disclosure form will directly benefit affected public servants by allowing them to receive compensation for services they provide as officers, directors or employees of banks in which their agencies' funds are deposited, or which seek such deposits. Previously the receipt of such income by affected public servants was prohibited. No data exists on which an estimate of the number of affected persons or of the magnitude of the impact could be made. Implementation will also impact banks by enabling them to receive deposits of public agency funds from agencies in which their officers, directors or employees serve; other banks currently holding public agency funds may be affected by the transfer of some or all of those funds to banks now able to receive deposits as the result of this new exception, or by receiving a lesser share of public agency deposits in the future. No data exists on which an estimate of this impact could be calculated.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of R.S. 39:1233.1 through this disclosure form will have the effect of increasing the number of banks eligible to compete for the banking business of affected agencies, although it will have no effect on whether the banking business of those agencies will be awarded on a competitive basis. It will also render affected public servants eligible for non-governmental service as officers, directors or employees of banks with which their agencies conduct banking business. Previously such non-governmental service was prohibited or restricted by the Louisiana Code of Governmental Ethics.

Peter G. Wright
Deputy General Counsel

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the adoption of LAC 46:I.511 pertaining to modifying the examination administration to accommodate physical handicaps.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 5. Applications for Examination
§511. Modifications to Examination Administration to Accommodate Physical Handicaps

Request for modifications to the examination administration to accommodate physical handicaps must be made in writing and received by the board on or before the dates set forth in §501(B). Such a request must be accompanied by a physician's report and/or a report by a diagnostic specialist, along with supporting data, confirm to the board's satisfaction the nature and extent of the handicap. After receipt of the request from the application, the board may require that the applicant supply further information and/or that the applicant appear personally before the board. It shall be the responsibility of the applicant to timely supply all further information as the board may require. The board shall determine what, if any, modifications will be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Architectural Examiners, LR 18:

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, LA 70809.

Mary "Teeny" Simmons
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Modifications to Examination Administration to Accommodate Physical Handicaps

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will not impact costs (savings) to

state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Candidates who request a modification to the examination administration to accommodate a physical handicap will be required to furnish a physician's report and/or a report by a diagnostic specialist, along with supporting data, confirming the nature and extent of the handicap. The board may request additional information and/or a personal appearance. Thus, the proposed rule may cause such candidates to incur some costs to obtain the required information; however, the board believes that the information requested is necessary to enable it to understand the request and determine what, if any, modifications in the examination administration will be made.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated since the proposed rule merely sets forth the procedure which the board will follow with respect to requests from candidates seeking to modify the examination administration to accommodate a physical handicap.

Mary "Teeny" Simmons Executive Director	John R. Rombach Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Board of Architectural Examiners

Under the authority of R.S. 37:144 and in accordance with the provisions of R.S. 49:951 et seq., the Board of Architectural Examiners gives notice that rulemaking procedures have been initiated for the adoption of LAC 46:I.501 pertaining to applying for the Architectural Registration Examination. The proposed rule fixes the dates for receipt of the necessary information from a candidate seeking to take the examination.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part I. Architects
Chapter 5. Applications for Examination
§501. Making Application for Architectural Registration Examination

A. A person desiring to take the Architectural Registration Examination ("ARE") should contact the National Council of Architectural Registration Boards ("NCARB") and request that NCARB file with the board a complete and approved Intern Development Program record for final review and approval by the board. The applicant shall also furnish the board a photograph and pay directly to the board the fee for taking the examination.

B. The Intern Development Program record, photograph, and the fee for taking the examination must be received by the board on or before April 1 for the June examination and on or before October 1 for the December examination. If the record, photograph, and fee are not received on or before said dates, the applicant will not be allowed to take the examination.

C. The applicant has full, complete, and sole responsibility for timely requesting from NCARB the filing of the record with the board, for furnishing the NCARB all necessary information, and for paying to NCARB all required fees. The applicant should be aware that NCARB requires a certain period of time to complete and file the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:145-146.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Architectural Examiners, December 1965, amended May 1973, LR 4:333 (September 1978), LR 10:738 (October 1984), LR 12:760 (November 1986), amended by Department of Economic Development, Board of Architectural Examiners, LR 15:1 (January 1989), LR 18:

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, LA 70809.

Mary "Teeny" Simmons
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Making Application for Architectural Registration Examination

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will not impact costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule merely fixes the date the board has determined for receipt of the necessary information from a candidate seeking to take the examination and thus will have no effect on costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated since the proposed rule merely fixes the date that the board has determined for receipt of the necessary information from a candidate seeking to take the examination.

Mary "Teeny" Simmons Executive Director	John R. Rombach Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Economic Development Corporation

The board of the Louisiana Economic Development Corporation gives notice of its intent to adopt LAC:19:X. Chapter 1 relative to BIDCO Investment Program.

Title 19
CORPORATIONS AND BUSINESS
Part X. Louisiana Economic Development Corporation
Chapter 1. BIDCO Investment Program

§101. Purpose

A. The purpose of the BIDCO Investment Program is to foster the growth of a new industry of private financial institutions in Louisiana, designed to fill the middle risk financing gap between conventional bank financing and venture capital financing. A BIDCO does not function as depository financial institution and is not intended to compete with traditional financial institutions for business or commercial loans.

B. The Louisiana Economic Development Corporation believes that from a private market perspective, investment in BIDCOs can be good investments, with potentially excellent returns and relatively low risk. However, obtaining initial equity capital for anything novel, such as a BIDCO, can prove difficult. Thus to foster the growth of BIDCOs, the Louisiana Economic Development Corporation is prepared to make equity investment in BIDCOs. If after a rigorous analysis of the business plan and the experience and qualification of the management team of a prospective BIDCO, the Louisiana Economic Development Corporation makes a commitment to make an equity investment, the ability of the prospective BIDCO to then raise additional capital from private equity sources will be enhanced.

C. A major objective of the Louisiana Economic Development Corporation is to obtain substantial leverage from the funds that it invests in BIDCOs. In addition to private equity requirements, additional leveraging should be anticipated, such as by the BIDCO being able to borrow money after it has had some operational experience, or possibly through selling the guaranteed portions of SBA guaranteed loans. Ultimately it is the objective of LEDC to sell its stock in a BIDCO at a profit, leaving behind an ongoing, permanent institution operation without any LEDC investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:

§103. Definitions

A. *BIDCO* - A Louisiana business and industrial development corporation licensed by the Louisiana Office of Financial Institutions with its only business consisting of providing non-traditional alternative capital funding for Louisiana businesses.

B. *Louisiana Business* - Any for profit enterprise with its primary domicile, and operations in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:

§105. Eligibility of BIDCO

A. Have obtained a license from the Office of Financial Institutions.

B. Louisiana based organizations registered as for profit corporation.

C. Have raised a minimum of $1,000,000 of privately raised capital, exclusive of other public funds, for investment purposes. These funds can be either commited or cash contributions for the purpose of capital funding of Louisiana small business as defined by SBA.

D. CEO to be experienced in debt and or equity financing with a proven success in this field.

F. The Louisiana Economic Development Corporation will also consider applications from BIDCOs which have a businesslike mission but with social objectives as well, and thus will not be intended by its private investors to achieve a profit commensurate with the risk. If the Louisiana Economic Development Corporation concludes that the stock in such a socially oriented BIDCO is not likely to be marketable for many years into the future, the Louisiana Economic Development Corporation may consider structuring its investment in such a way so that eventually has a reasonable prospect of recovering the amount of its investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:

§107. Investment

A. The Louisiana Economic Development Corporation may invest $1 to each $2 of private capital. The investment in any one BIDCO shall not exceed $2,000,000 of LEDC funds to $4,000,000 of BIDCO funds.

1. The method of investment will be equal to the method of the other investors i.e. committed capital for committed capital; cash investment for cash investment, or cash and commitment for cash and commitment.

2. The Louisiana Economic Development Corporation may make commitments to applying BIDCOs predicated and contingent upon the BIDCO's stated intention to raise a specified amount of capital over a specified period of time. Such commitments made by the Louisiana Economic Development Corporation under this program shall normally be for a period of anywhere from six months to a year. Such term of commitment shall be at the sole discretion of the board predicated on the financial circumstances of the Louisiana Economic Development Corporation at the time of the investment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:

§109. Terms of Investments

A. The terms of investments will be negotiated on a case-by-case basis but LEDC will always have the right to sell its stock.

B. The Louisiana Economic Development Corporation's equity investment in a BIDCO will be structured as the board deems appropriate.

C. Founders stock and favorably priced employee stock shall in fact be subordinate in status to the Louisiana Economic Development Corporation's stock unless the Loui-

siana Economic Development Corporation determines that the pricing of the seed investor shares is consistent with the risk taken, in comparison with the pricing of Louisiana Economic Development Corporation shares.

D. The actual timing of the purchase of equity securities may be phased in, as specified in the BIDCO's fund raising plan. If the main round private equity capital is phased in over a period of time, the Louisiana Economic Development Corporation's equity investment would, in general, be phased in on a similar schedule.

E. At the discretion of the board, the Louisiana Economic Development Corporation may require at least one voting seat on board of directors of the BIDCO. In any event, LEDC will have observer rights at all board meetings, including executive sessions of the BIDCO.

F. The LEDC board shall develop, with the BIDCO management, parameters for operating expenses of the BIDCO.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:

§111. Operating Requirements

A. During the period when the Louisiana Economic Development Corporation owns stock in a BIDCO, the BIDCO shall operate in accordance with the following parameters.

1. The BIDCO shall provide financing assistance only to business firms located in Louisiana. If the business firm has multi-state operations, the criterion that shall be used by the BIDCO is whether or not Louisiana is the state where the largest economic benefit of the financing transaction is likely to occur.

2. The BIDCO shall endeavor to maintain as its primary focus, in providing the financing assistance, the ability to address the gap between low risk conventional bank financing and high risk venture capital financing.

3. Without the consent of the Louisiana Economic Development Corporation, the BIDCO shall not apply to the commissioner of the Financial Institutions Bureau to surrender the BIDCO's license.

B. The Louisiana Economic Development Corporation may negotiate additional operating requirements with BIDCOs on a case-by-case basis, as needed to safeguard the quality of the Louisiana Economic Development Corporation's investment or to promote achievement of the objectives of the program or the Louisiana Economic Development Corporation.

C. The general and administrative expenses of the BIDCO will remain within the parameters of the original business plan.

D. Reporting requirements include but are not limited to the following:

1. annual audited financial statements, quarterly financial statements, minutes of all regular board or special board meetings or any other reports deemed necessary by the board of LEDC;

2. update on any management and/or board member changes with their respective qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 18:

§113. Application Requirements

A. To apply to the Louisiana Economic Development Corporation for a commitment to invest, a prospective BIDCO shall submit detailed information covering three main categories: 1) fund raising; 2) experience and qualifications of the proposed management team, 3) the business plan for the BIDCO. The following sections specify in more detail the information that should be covered. While these sections provide a possible format, the applicant should in no way feel bound by this format. The applicant can use its own format, as long as the basic information is provided. Moreover, the applicant should feel free to provide additional information which is viewed as relevant. The Louisiana Economic Development Corporation may request additional information beyond what is specified below:

B. Fund Raising

1. Specify the amount of LEDC commitment sought.

2. Specify the minimum amount of additional private equity to be raised if the LEDC makes the commitment requested in Paragraph 1 above. Specify the maximum amount of private equity to be raised.

3. Describe the basic legal structure of the various proposed classes of equity investment in the BIDCO, including positioning, pricing, voting control, and any other major parameters. This should be in enough detail to give the LEDC a good overview of what is contemplated. However, this does not require the presentation to be in a formal private placement memorandum format. If a formal offering document is not presented, the LEDC's commitment to invest shall be subject to approval of the formal offering document by the legal council of the LEDC.

4. Describe and discuss the applicant's fund raising strategy for raising the additional private equity.

5. Specify the principal investor sources that the applicant will be targeting.

6. What is applicant's basic proposal to prospective private investors. What expectations and objectives are the applicant specifying. This includes, for example, representations regarding reasonably expected returns on private equity investment, indirect financial benefits, if any, and social purposes, if applicable.

7. List all specific financing commitments already obtained, including documentation for each. This should include the evidence of the initial $1 million required capital.

8. Describe specific demonstrations of interest from private investor sources, including documentation where possible.

9. Describe fund raising experience of people involved or to be involved in fund raising. Describe key fund raising contacts.

10. Specify applicant's projected timetable, with milestones for completion of the fund raising.

11. Specify whether applicant anticipates taking in all of the committed equity investment at closing, or whether applicant plans a phase-in. If a phase-in is planned, specify the proposed schedule. It is permissible to have different scenarios based on the actual amount of equity capital raised.

12. Specify applicant's start-up budget, including funds already expended and a detailed projected budget for completion of the fund raising. Specify the person or persons

who will be working on the start-up phase, including how much of their time they will spend; how, if at all, they will be compensated; and their resumés and references. List applicant's seed investors, if any, with amount invested and number of shares of stock owned. Specify any additional amount of seed capital applicant is seeking, including a discussion of possible sources.

C. Experience and Qualifications

1. Submit resumés, references, and personal financial statements for all principal members of the management team that are identified. Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on the principal members of management.

2. Describe the proposed responsibilities of each of the principal members of the management team that have been identified. If any of these people will not be full time, describe their other activities.

3. Describe the responsibilities of any principal management position for which a person has not been identified.

4. Specify any directors that have been identified, and submit resumés.

5. Specify any other key people that have been identified, including any advisors, consultants, attorneys and accountants, and submit resumés and/or descriptions of firms. Note: Louisiana Economic Development Corporation reserves the right to perform criminal background checks on these key people.

D. Business Plan

1. Market

a. Describe and discuss the types of businesses that the BIDCO will finance. Discuss the extent to which the BIDCO intends to specialize in certain industries, or whether a more broad based approach is planned.

b. Describe the size range of businesses that it is contemplated the BIDCO will finance, with a general indication of where most of the focus is expected.

c. Discuss the life cycle stage or stages of the companies which the BIDCO will likely finance, with an indication of where most of the focus is contemplated.

d. Discuss the geographic area in which the BIDCO plans to focus. Specify the city or parish in which the BIDCO's principal office is planned to be located, and discuss intentions, if any, to establish any additional offices.

e. Provide any market analysis that you deem relevant.

2. Financing - Describe and discuss the financing instruments that are intended to be used by the BIDCO (e.g. debt with equity features, royalty, equity, pure debt (with SBA or not), etc.). Discuss the anticipated mix of the various types of financing instruments. Discuss the anticipated size range of loans/investments to be made, and information regarding pricing, term, and other conditions. Discuss risk/return expectations on projects. Discuss methods of exit form investments.

3. Marketing Strategy - Describe the BIDCO's plans and approach to marketing its services, including the identification of potential applicants for financing assistance.

4. Screening Process and Evaluation Criteria. Discuss the anticipated number of business firms that will be reviewed for possible financing assistance, in comparison with the number that will actually be financed. Discuss the approach to screening business firms, and the evaluation criteria for deciding whether, and under what terms and conditions, to provide financing assistance.

5. Fee Income. Discuss the potential for fee income, and any plans that the BIDCO might have for generating fee income.

6. Management Assistance. Discuss the plans of the BIDCO to provide management and/or technical assistance to companies for which the BIDCO provide financing. Discuss the BIDCO's plans for monitoring its financing, and enforcing provisions of loan or investment agreements. Discuss how the BIDCO plans to handle problem loans and investments. Discuss the BIDCO's plans to provide management assistance to companies that the BIDCO is not financing.

7. Complementary Relationships. Discuss the nature of complementary relationships that are anticipated with banks, commercial lenders, investment bankers, venture capitalist and other institutions. This discussion can be based on general types of institutions and/or can identify specific institutions where complementary relationships have already been discussed.

8. Management Structure. Describe the proposed management structure for the BIDCO, and anticipated compensation for principal members of the management team.

9. Capital Structure - Leverage. Discuss the BIDCO's plans and prospects for leveraging its equity capital, by borrowing money, use of the SBA guarantee secondary market, or other approaches. With respect to borrowing money, what degree of leverage would the BIDCO seek and over what time period? What sources for debt financing does applicant anticipate? How would applicant seek to structure the debt? If use of the SBA program is contemplated, discuss applicant's approach to this activity and analyze its potential profitability. If applicant is relying heavily on the SBA guarantee program, what is their fall back if the SBA guarantee program is eliminated or its effectiveness significantly curtailed.

10. Idle Funds. Describe plans for the management of the idle funds of the BIDCO.

11. Realization of Returns By Investors. Discuss long term plans and options for providing a tangible return to the investors in the BIDCO (e.g. dividends? go public? be acquired?)

12. Tax and Accounting Issues. Discuss relevant tax and accounting issues for the BIDCO.

13. Financial Projections

a. Provide a detailed operating budget for the first three years of the BIDCO's operation. This first year shall be month by month. The second and third years may be presented on an annual basis.

b. Provide performance projections, year by year, for a 10-year period. These projections should show cash flow, income and expense (including taxes), and balance sheet data. For these performance projections, operating expenses can be consolidated into one line item.

c. Specify the assumptions used for the performance projections. It is permissible to submit several sets of performance projections based on differing assumptions. However, if applicant submits several sets of projections based on differing assumptions, specify which set of assumptions are applicant's primary assumptions.

d. Specify computer programs used for projections, and specify formulas used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department

of Economic Development, Economic Development Corporation, LR 18:

Interested persons may submit written comments to Mike Williams, Interim Director, Louisiana Economic Development Corporation/BIDCO Investment Program, Box 94185, Baton Rouge, LA 70804-9185.

Mike Williams
Interim Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: BIDCO Investment Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no known costs to the state or local government.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no known effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The program will benefit small business owners by making available capital for expansions that would not ordinarily be available. The small business owners will in turn be able to create and preserve jobs. The minimum amount of capital to be made available under the program will be $1.5 million per BIDCO investment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The licensing procedure through the Office of Financial Institutions ensures that BIDCOs are not in direct competition with conventional banking institutions. Each BIDCO will employ professional staffs and with the capital available the BIDCO will provide capital to small businesses which will employ additional personnel.

Michael Williams
Interim Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35
HORSE RACING
Part XIII. Wagering
Chapter 103. Pari-mutuels
§10303. Exchange of Pari-mutuel Ticket

The exchange of a valid pari-mutuel ticket having a face value of $500 or less may be made at the window at which the ticket was originally purchased. Any exchange of a valid pari-mutuel ticket with a face value of over $500 must be approved by the mutuel manager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, repromulgated by the Department of Commerce, Racing Commission, LR 2:439 (December 1976), amended LR 3:35 (January 1977), LR 4:281 (August 1978), LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: "Exchange of Pari-mutuel Ticket"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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 NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits patrons by permitting them to exchange wagering tickets at the same mutuel window where purchased. If such ticket value exceeds $500, then the mutuel manager must approve such exchange.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35
HORSE RACING
Part XIII. Wagering

Chapter 111. Trifecta

§11115. Field Less Than Nine

A. Trifecta wagering will be permitted when the number of scheduled starters in a thoroughbred or quarter horse race is nine or more. A late scratch after wagering begins on that race will not cancel trifecta wagering.

B. The commission may approve trifecta wagering on a race with a purse value of $200,000 or more where the number of scheduled starters is less than nine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), amended LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Field Less Than Nine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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 NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits bettors and associations by permitting trifecta wagering in a race with nine or more starters. The rule allows Commission-approved exceptions on races with a purse value of $200,000 or more.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following.

Title 35
HORSE RACING
Part III. Personnel, Registration and Licensing

Chapter 57. Association's Duties and Obligations

§5702. Penalty for Failure to Comply

Should a permittee or licensee fail to promptly comply with each provision of R.S. 4:146(B), R.S. 4:161(B), or R.S. 4:222, the permittee or licensee who fails to comply with such provision(s) may be subject to a fine of $200 for each day such violation shall continue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, 146, 148, 161 and 222.

HISTORICAL NOTE: Promulgated by Department of Economic Development, Racing Commission, LR 17:258 (March 1991), amended LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Penalty for Failure to Comply

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The effect on revenue collections is potentially positive, however not predictable, nor estimable. There is no way to predict the number of violations that could occur, but violations could result in a $200 per day fine.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits the commission by adding the applicable off-track wagering statute (R.S. 4:222) to the rule where failure to comply may result in a $200 fine to the licensee for each day such violation continues.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following.

Title 35
HORSE RACING
Part V. Racing Procedures

Chapter 63. Entries

§6319. Publication of Past Performances

No horse shall be permitted to enter or start unless approved by the association. Further, the stewards shall require that published past performances, in races or workouts, be sufficient to enable the public to make a reasonable assessment of its racing capabilities. No horse shall be entered to race that has not had a published workout or a race within 60 days of the date of the entered race. Horses without sufficient workouts must be scratched by the stewards before any wagering begins on that day's racing program. Late workouts shall be posted for public view in at least one conspicuous place in the public enclosure, and announced to the public via public address system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Adopted by the Louisiana Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:436 (December 1976), repromulgated LR 3:33 (January 1977), amended LR 4:279 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 17:262 (March 1991, LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Publication of Past Performances

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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)

The proposed rule change benefits horsemen by eliminating late scratches of horses that do not have sufficient published workouts. It outlines a specific time frame for stewards to scratch these horses, thereby improving the opportunity for the betting public to make early selections without the fear of having a late scratch disrupt their betting selections.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35
HORSE RACING
Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1733. Racing a Horse Under Investigation

A. When a report as described in §1729 is received from the state chemist, the state steward shall immediately advise the trainer of his rights to have the "split" portion of the sample tested at his expense. The stable shall remain in good standing pending a ruling by the stewards, which shall not be made until the "split" portion of the original sample is confirmed positive by a laboratory chosen by the trainer from a list of referee laboratories. The horsemen's bookkeeper shall not release any purse monies until the results of the split portion of the sample are received by the commission. The horse allegedly to have been administered any such drug or substance shall not be allowed to enter in a race during the investigation and hearing or until the split sample results are received by the commission, whichever occurs first.

B. In the event the horse is claimed in the race in which the horse allegedly ran with a prohibited drug or substance, the new owner may enter and race the horse; however, should the horse be claimed thereafter by the same owner who raced the horse, allegedly with prohibited drug or substance, in the previous race in question, the horse shall not be allowed to enter a race during the investigation and hearing concerning the horse in the previous race in question.

C. For the purpose of this rule "the investigation and hearing" referred to herein shall mean the stewards' hearing following receipt of the report of the state chemist described herein and in §1729.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:142 and 148.

HISTORICAL NOTE: Adopted by the Louisiana State Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:287 (August 1978), amended LR 7:262 (May 1981), LR 9:755 (November 1983), LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Racing a Horse Under Investigation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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 NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen by restructuring Paragraph 'A' of the rule which provides for split sample testing, the trainer's choice of a referee laboratory, and a positive designation only after the split sample is confirmed by the referee laboratory. Also, this rule change will improve the public's confidence in the commission's equine testing procedures and help eliminate time consuming and costly appeals to stewards' rulings relative to post-race equine drug positives. [This rule change is in conjunction with changes in rules §1737 and §1775.]

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following.

Title 35
HORSE RACING
Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices
§1775. Testing of a Split or Referee Sample

The following procedure is hereby established for the testing of a split or referee sample.

A. After a horse has voided and its urine collected for testing, the volume of the urine collected shall be split or divided into approximately equal parts, one being processed for initial commission laboratory testing for the detection of the presence of prohibited drugs or substances therein. The remaining part shall be identified as the split or referee sample to be processed for future testing under the procedures hereby established. If the urine is from a two-year-old horse, the specimen tag shall so indicate.

B. Should blood be drawn at the test or retaining barn for testing, it shall be split or divided into approximately equal parts to be processed for testing by the initial commission test and the split or referee test. If the blood is drawn from a two-year-old horse, the specimen tag shall so indicate.

C. Within 72 hours from the time the stewards notify a trainer that the initial commission laboratory test on a urine or blood specimen from a horse entered and raced by him was positive for the presence of a prohibited drug or substance, the trainer must request the stewards in writing to have the split or referee sample tested by an approved referee laboratory. The commission shall provide a list of referee laboratories which must be able to demonstrate competency for that drug or substance at the estimated concentration reported by the primary laboratory, from which a trainer must select one. At the time of his request the trainer must forward the necessary fees to cover all expenses to be incurred in shipping and testing the split or referee sample to the referee laboratory. Failure of a trainer to make a request to the stewards for a split sample within the required 72 hours constitutes a waiver of any and all rights to have the split or referee sample tested.

D. A trainer timely requesting a testing of a split or referee sample shall select one of the laboratories designated by the commission as referee laboratories to perform the testing. The trainer shall sign a hold-harmless agreement for a split sample laboratory and an agreement that the results of the split sample laboratory can be introduced as evidence in any hearing, said agreements shall remain with the stewards of the track at which the positive was reported.

E. If the split portion of the test confirms the findings of the primary laboratory it shall constitute prima facie evidence of a violation of the applicable provisions of this Chapter.

F. If the split portion of the test does not confirm the findings of the primary laboratory, the commission shall not consider the sample to constitute prima facie evidence of a violation of the applicable provisions of this Chapter and no penalty shall be imposed, except as provided in Subsection G hereof.

G. If, through no fault of the commission, its agents or employees, a split portion of the sample cannot be tested because of loss, damage, or decomposition then, in that event only, the findings of the primary laboratory shall constitute the prima facie evidence of a violation of the applicable provisions of this Chapter.

H. The identity of the drug or substance shall be revealed to the referee laboratory. Any communication between the primary and referee laboratory is limited to the exchange of the analytical method and threshold level used to confirm the identity of the drug or substance.

I. *Primary laboratory*, for the purpose of this rule, shall mean the laboratory selected by the commission to test urine or blood for the presence of prohibited drugs or substances.

J. *Referee laboratory*, for the purpose of this rule, shall be one of the referee laboratories approved by the commis-

sion to test split portions of urine or blood samples when timely requested by a trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and 148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 8:405 (August 1982), amended LR 10:660 (September 1984), LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Testing of a Split or Referee Sample

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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 NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen by providing split sample testing procedures of a post-race positive equine drug test. The trainer now has 72 hours to request a referee laboratory's testing of the split portion of a sample before the stewards conduct a hearing and administer any disciplinary action. The split must be done at one of the commission-approved referee laboratories; such laboratories must be able to provide evidence of their competency to detect the substance and levels thereof. The trainer must now sign a hold-harmless agreement with the referee laboratory; split positive confirmation shall be considered prima facie evidence of violation; no penalty shall be imposed if there is the lack of confirmation of a split positive; if the split cannot be tested (under special circumstances) only then will the original positive sample constitute evidence. The referee laboratory will be notified of the substance to be analyzed for; communication between the initial laboratory and referee laboratory shall be for analytical information and methods necessary to confirm the identity of the substance in question. Other changes are minor and technical in nature for clarification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35
HORSE RACING
Part V. Racing Procedures
Chapter 63. Entries
§6329. Two Races on a Day

A. No horse may be entered in two races in a single day of racing unless one is a stakes race. Preference of running in a stakes race or purse race must be declared at scratch time.

B. Any horse entered to race at more than one association on the same day in which one is not a stakes race shall be scratched from all races in which it was entered and the trainer shall be subject to a fine by the stewards serving at each association.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Louisiana State Racing Commission in 1971, repromulgated by Department of Commerce, Racing Commission, LR 2:437 (December 1976), amended LR 3:33 (January 1977), LR 4:280 (August 1978), LR 13:289 (May 1987), LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: "Two Races on a Day"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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 NON-GOVERNMENTAL GROUPS (Summary)

The proposed rule change benefits horsemen adding enforcement to the current rule by standardizing the penalty to prevent entering a horse in two races (unless one is a stakes) in one day. Previously, this rule created a lack of consistency in the penalties for each violation. The change specifically requires scratching the horse from both races and a fine issued at each track.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following.

Title 35
HORSE RACING
Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1737. When Horse Found Drugged

Should the chemical analysis of any sample of the blood, saliva, urine or other excretions of body fluids of a horse contain any prohibited drug or substance of any description not permitted by Chapter 15 or prohibited by §1719, the trainer of such horse shall be entitled to request a split sample as provided for in §1775. Following confirmation of a split sample by a referee laboratory that a split sample was positive for the same drug or substance contained in the primary sample not permitted by Chapter 15 or prohibited by §1719, the trainer of the horse may, after a hearing before the stewards, be fined, suspended or ruled off, if the stewards conclude that the prohibited drug or substance contained in the sample could have produced analgesia in, stimulated or depressed the horse, or could have masked or screened a drug or substance which could have produced analgesia in, stimulated or depressed the horse. The stable foreman, groom and any other person shown to have had the care or attendance of the horse may be fined, suspended or ruled off. The owner(s) of a horse so found to have received administration of such prohibited drug or substance shall be denied, or shall promptly return, any portion of the purse or sweepstakes and any trophy awarded to such horse, and the said purse, sweepstakes and any trophy shall be distributed as in the case of a disqualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:142 and 148.

HISTORICAL NOTE: Adopted by the Louisiana State Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), repromulgated LR 4:287 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 16:764 (September 1990), LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: When Horse Found Drugged

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs to implement this rule.

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)

The proposed rule change benefits horsemen by providing for split sample testing, the trainer's choice of a referee laboratory, and a positive designation only after the split sample is confirmed by the referee laboratory. Also, this rule change will improve the public's confidence in the commission's equine testing procedures and help eliminate time consuming and costly appeals to stewards' rulings relative to post-race equine drug positives. [This rule change is in conjunction with changes in rules §1733 and §1775.]

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development
Racing Commission

The Louisiana State Racing Commission hereby gives notice in accordance with law that it intends to amend the following rule.

Title 35
HORSE RACING
Part VII. Equipment and Colors

Chapter 89. Whips

§8903. Size; Approval

No whip shall weigh more than one pound, nor exceed 31 inches in length including the popper. No stingers or projections extending through the hole of a popper, nor any metal part on the whip shall be permitted. All whips shall be approved by the stewards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:147, 148 and 172.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:443 (December 1976), repromulgated LR 3:39 (January 1977), amended LR 4:284 (August 1978), LR 18:

The office of the Racing Commission is open from 9 a.m. to 4 p.m. and interested parties may contact Claude P. Williams, Executive Director, or Tom Trenchard, Administrative Services Assistant at (504) 483-4000 or LINC 635-4000 holidays and weekends excluded, for more information. All interested persons may submit written comments relative to this rule through Friday, February 7, 1992, to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5111.

Claude P. Williams
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: "Size; Approval"

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no costs to implement this rule.

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 NON-GOVERNMENTAL GROUPS (Summary)
The proposed rule change benefits jockeys and apprentice jockeys (as well as the horses), by prohibiting whips exceeding one pound in weight and 31 inches in length. The rule also prohibits any projecting parts which could injure the horse. (The rule follows other racing jurisdictions' standards.)

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition nor employment.

Claude P. Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Montessori Certification - Bulletin 746

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 the Montessori standards listed below for certified teachers in public and non-public schools to allow certified teachers to add an endorsement in Montessori to a standard teaching certificate:

Montessori Teacher Certification

An authorization to teach Montessori at the age levels prescribed by the training institution may be added to a standard teaching certificate for those teachers who have completed training from one of the following:

1. American Montessori Society,
2. Association Montessori Internationale,
3. St. Nicholas Training Course of London,
4. The Montessori World Education Institute,
5. Montessori Institute of America,
6. Southwestern Montessori Training Institute or any other course jointly approved by the Board of Elementary and Secondary Education and the Louisiana Montessori Association.

Interested persons may comment on the proposed policy change in writing, until 4:30 p.m., March 9, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Montessori Certification for Certified Public and Nonpublic School Teachers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The adoption of this policy will cost the Department of Education approximately $50 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
This policy will allow certified teachers to add an endorsement in Montessori, at the age levels prescribed by the training institution, to a standard teaching certificate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed policy will provide Montessori certification for certified teachers in public and nonpublic schools. Montessori standards for ancillary certification have existed only for teachers in nonpublic Montessori schools.

John Guilbeau
Acting Deputy Superintendent
for Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Revised Criteria for Eligibility and
Procedure for Screening, Evaluation, and
Re-evaluation for Handicapped Infants

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 an amendment to Bulletin 1508, Pupil Appraisal Handbook to delete the section on handicapped infant and replace with eligibility for infants and toddlers with disabilities. This

amendment was adopted as an emergency rule and printed in full in the November, 1991 issue of the *Louisiana Register*. Effective date of the emergency rule was November 20, 1991.

This amendment is necessary for implementation of Part H of the Individuals with Disabilities Education Act, Intervention Program for Infants and Toddlers with Disabilities, which requires infants and toddlers to be evaluated in accordance with the federal statute and within 45 calendar days.

Copies of this proposed rule may be obtained from the Office of the State Register, 1051 Riverside North, Baton Rouge, LA 70804 and from the Board of Elementary and Secondary Education at the address below.

Interested persons may comment on the proposed policy changes in writing, until 4:30 p.m., March 9, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Bulletin 1508 - Screening, Evaluation and Re-evaluation of Handicapped Infants

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It will cost approximately $2,000 to train local education pupil appraisal staff. Additionally, $5,070,518 will be needed for additional pupil appraisal personnel to maintain the 97 percent court ordered completion rate of multidisciplinary evaluations and complete the anticipated minimum of 2,000 multidisciplinary evaluations on infants and toddlers with disabilities.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The economic benefits of early detection and intervention to families of children with disabilities and to human resource agencies include the reduced need for special education and related services during the school years and beyond. Research has shown that for every $1 spent in early intervention, $7 will be saved due to decreased needs for later services. Early intervention and detection for children with disabilities may result in the resolution of problems which affect children's likelihood of being self-sufficient as adults and reduce medical insurance costs for therapeutic intervention after the early childhood years.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is a need to fund 153 pupil appraisal positions to maintain the 97 percent completion rate as mandated by the Luke S. consent decree and to complete the anticipated 2,000 multidisciplinary evaluations on infants and toddlers.

These evaluations must be completed within 45 calendar days rather than the 60 days allowed for other evaluations.

John Guilbeau
Acting Deputy Superintendent
for Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Amendment to Teacher Tuition Exemption Guidelines

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 the following amendment to the Teacher Tuition Exemption Guidelines:

"Any student enrolled in a course that has the signature of approval of the dean (or his/her designee) for tuition exemption, and the course is subsequently determined to be ineligible by the State Department of Education, will be allowed to drop the course at that time and will not be required to pay a drop fee. If the student chooses to remain in the course, he/she will be responsible for the appropriate university fees."

This amendment was also adopted as an emergency rule, effective December 20, 1991.

Interested persons may comment on the proposed policy change in writing, until 4:30 p.m., March 9, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment to Teacher Tuition Exemption Application Form

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated effects on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This rule change allows teachers participating in program with the approval of their Dean of Education to drop a course without payment of a drop fee if SDE determines course to be ineligible. Since this rule states that students would not have to pay a drop fee for an ineligible class if they drop the course, a university would lose

the number of students dropping times the drop fee. There is no mechanism to determine the exact dollar figure of that loss. Most universities participating in TTE do not charge a drop fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

John Guilbeau
Acting Deputy Superintendent
for Management and Finance

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Student Financial Assistance Commission
Office of Student Financial Assistance

GSL Program Policy and Procedure Manual

The Louisiana Student Financial Assistance Commission (LASFAC) advertises its intention to revise and reissue the Loan Program Policy and Procedure Manual. Effective April 20, 1992 this manual will replace the 1987 Policy and Procedure manual and its supplementing Loan Program Memorandums (LPMs).

LASFAC supplies copies of the manual to schools and lenders participating in the Guaranteed Student Loan Programs administered by the commission. The manual is maintained in accordance with federal regulations by the issuance of Loan Program Memoranda.

A copy of the revised manual can be obtained from the office of the State Register, 1051 Riverside North, Room 512, Baton Rouge, LA 70804 or it can be viewed from 7:45 a.m. to 4:30 p.m., Monday through Friday at the Office of Student Financial Assistance, 1885 Wooddale Boulevard, Baton Rouge, LA 70806.

Interested persons may submit written comments on the revised manual until 4:30 p.m., March 20, 1992 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Revision of GSL Program Policies and Procedures Manual

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

We estimate the cost of printing the revised manual to be approximately $10,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections of state or local governmental units is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

In addition to including clarifications and updates to program procedures, the manual has been restructured to include a glossary, tables of contents, and an index, to aid its users in locating needed information.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated from this program.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Education
Student Financial Assistance Commission
Office of Student Financial Assistance

State of Louisiana
Louisiana Opportunity Loan Program

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance announces its intention to promulgate rules governing the Louisiana Opportunity Loan Program (LA-OP).

This manual establishes the policies and procedures by which the State of Louisiana shall authorize loans to student borrowers under the federally nonsubsidized guaranteed student loan program.

Louisiana Opportunity Loan Program
Lender Policies and Procedures Manual

I. LA-OP Lender Policies

A. Unless otherwise supplemented herein, the provisions of 34 CFR Parts 99, 600, 668, and 682 shall regulate this program.

B. Eligible institutions are listed in the Appendix.

C. Interest on loans will be billed to the student while the student is enrolled in school at least half time and must be paid by the student within 30 days of receipt. Failure of the student to pay accrued interest will result in the student being denied additional loans. Eligibility may be restored by the payment of past due interest.

D. An insurance fee of three percent shall be deducted from each loan disbursement and paid to the Louisiana Student Financial Assistance Commission as the loan guarantor. There shall be no origination or application fees charged to the student.

E. The student must apply for a federal Pell Grant and Stafford Loan and, if eligible, accept the maximum amount offered under these programs before being considered for the LA-OP Loan. If the student is ineligible for a Pell Grant and has only partial eligibility for a Stafford Loan, the LA-OP Loan may substitute for the family contribution up to the maximum annual Stafford limit or the cost of education, whichever is less, provided that such amount is equal to or greater than the minimum loan limit of $1,000.

F. Students who applied for a federal Stafford Loan to

attend a specific institution but who have been denied such aid solely because of the amount of the expected family contribution, should be informed by that institution of the availability of this program and offered the opportunity to be considered for a LA-OP Loan.

II. LA-OP Program Procedures

A. Loan Limits

1. The minimum loan amount that may be certified and disbursed under this program shall be $1,000.

2. The maximum annual loan amounts for this program shall be consistent with Stafford Loan Limits and are as follows:

FRESHMAN	$2,625
SOPHOMORE	$2,625
JUNIOR	$4,000
SENIOR	$4,000
GRADUATE AND PROFESSIONAL	$7,500

3. The maximum aggregate loan amount for an undergraduate student shall be $17,250.

4. The maximum aggregate loan amount for a graduate or professional student, including amounts received for study at the undergraduate level, shall be $54,750.

6. A student cannot receive loans from both the Stafford and the Louisiana Opportunity Loan programs that, when combined, exceed the annual and aggregate limits listed above.

7. Loans may not exceed the cost of education minus financial aid, nor be more than the amount certified by the institution.

B. Eligible Borrowers

To be eligible under this program, a borrower must:

1. Be a resident of Louisiana as defined herein:

"Any person who has resided in the State of Louisiana continuously during the twelve months immediately prior to the date of application and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated by compliance with all of the following:

a. if registered to vote, is registered to vote in Louisiana;

b. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;

c. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and

d. if earning an income, has complied with state income tax laws and regulations."

2. Be a United States citizen, national, or eligible permanent resident of the United States.

3. Maintain full-time enrollment at any state public two or four-year college or university or any institution that is a member of the Louisiana Association of Independent Colleges and Universities.

4. Make satisfactory academic progress as defined by the institution.

5. Not be in default on any other student loans nor owe a refund to any financial aid program.

6. Apply for and be denied a federal Pell Grant.

7. Not be receiving Title IV campus based aid, to include College Work-Study, Perkins Loan, and the Supplemental Educational Opportunity Grant (SEOG).

8. In addition to the requirements established herein, be otherwise eligible for a Stafford Loan as set forth in 34 CFR 682.201, except for qualifying for the payment of federal interest subsidy as set forth in 34 CFR 682.301.

C. Institutions Eligible to Participate

To participate, an institution must:

1. be a state public two or four-year college or university or a member institution of the Louisiana Association of Independent Colleges and Universities;

2. have satisfied all the requirements for an eligible and participating institution under Title IV of the Higher Education Act of 1965, as amended; and

3. be an eligible institution as evidenced by a concluded school participation agreement with the Louisiana Student Financial Assistance Commission.

[See the Appendix for the listing of eligible institutions]

D. Institutional Procedures

1. The institution must certify the student's eligibility to borrow under this program by completing the institutional portion of the Louisiana Opportunity Loan Application and Promissory Note. Certifications may be performed either manually or electronically, depending upon the institution's processing capability.

2. The institution must certify the student's eligibility to borrow and enter the cost of attendance, any other financial aid to include any subsidized Stafford Loan, and the amount of LA-OP Loan eligibility. Expected family contribution (EFC) is not applicable and is therefore omitted.

3. Although the LA-OP Loan is considered in lieu of the EFC in testing for an overaward, a LA-OP Loan may not replace the EFC when determining the student's eligibility for other aid under Title IV of the Higher Education Act.

APPENDIX
LA-OP Lender Policies and Procedures
Eligible Colleges and Universities

Bossier Parish Community College
Centenary College
Delgado Community College
Dillard University
Grambling State University
Louisiana College
Louisiana State University - Baton Rouge
  LSU Sch of Vet Med
  LSU Law Sch
  LSU-Alexandria
  LSU-Eunice
  LSU-Shreveport
  LSU Med Center-N.O.
  LSU Med Center-Shreve
  University of New Orleans
Louisiana Tech University
Loyola University
McNeese State University
Nicholls State University
Northeast Louisiana University
Northwestern State University
Our Lady of Holy Cross College
Southeastern Louisiana University
Southern University - Baton Rouge
  Southern Law Sch
  Southern-New Orleans
  Southern-Shreveport

St. Bernard Parish Community College
Tulane University
Tulane Med Ctr
Tulane Sch of Pub Hlth
Tulane Law Sch
University of Southwestern Louisiana
Xavier University

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., March 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Establishment of Louisiana Opportunity Loan Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

First year costs for implementation of this program are estimated at $3,000,000. FY 92-93 estimated costs are $5,250,000. FY 93-94 estimated costs are $3,000,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of 3 percent as guarantor and a net of 1/2 percent administrative cost allowance on $22,000,000 in loans for FY 91-92, and $32,000,000 each for FY 92-93 and FY 93-94, would result in collections of $770,000 for FY 91-92, and $1,120,000 each for FY 92-93 and FY 93-94.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Students who need to borrow funds for higher education regardless of their family income would benefit from this program, in that loan funds would be available to pay for their educational expenses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated from this program.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Employment and Training
Office of Labor

The Department of Employment and Training, Office of Labor, intends to amend certain rules and regulations under the Administrative Procedure Act R.S. 49:950, et seq., for the implementation and administration of the Job Training Partnership Act (JTPA) (Public Law 97-300).

The following are proposed amendments to the Job Training Partnership Act rules and regulations.

Title 40
LABOR AND EMPLOYMENT
Part XIII. Job Training Partnership Act
Chapter 1. General Provisions
§121. Carry-over Balances

Funds obligated for any program year may be expended by each recipient, service delivery area grant recipient or subrecipient during that program year and the two succeeding program years with the following exceptions:

A. Title II-A and Title II-B - Reallocation Policy

1. Section 161(b) of the Job Training Partnership Act provides that no amount of funds "shall be deobligated on account of a rate of expenditure which is consistent with the job training plan." This being the case, the Louisiana Department of Employment and Training is asserting the reverse. If an SDA's rate of expenditure is inconsistent with the job training plan, its new obligational authority (NOA) may be reduced in subsequent program years in order to, in effect, reallocate funds from that program year;

2. Beginning in Program Year 1990 and applying to Program Year 1989, an amount equivalent to 20 percent of the previous year's total funds available will be classified as "allowable carry-out";

3. All other carry-out will be designated as "excess carry-out" and the NOA to the SDA will be reduced by the amount of the excess carry-out. Determination of total carry-out and excess carry-out will be made at the annual close-out of the grant and reallocation of funds will be made to those SDAs which request the funds and have expended more than 80 percent of their total funds available. The reallocation will be based on the degree that SDAs exceed the 80 percent expenditure level;

4. The reduction of the NOA will result in funds being available with cost category levels of 15 percent, 15 percent, and 70 percent respectively for Administration, Participant Support, and Training;

5. All SDAs will be subject to these policies and procedures beginning in Program Year 1990.

B. Title III - Reallotment and Reallocation Policy

1. Excess Unexpended Funds

a. The U.S. Department of Labor has established Title III reallotment procedures that have the effect of limiting the amount of unexpended funds that can be carried-over by the state at the end of each program year. Reallotment also rewards states with high expenditure rates by providing additional funds. These procedures are described in §303 of the Job Training Partnership Act, §6305(e) of the Economic Dislocation and Worker Adjustment Assistance Act, §631.12 of JTPA federal regulation, and Training and Employment Guidance Letter (TEGL) No. 4-88 issued by the U.S. Department of Labor;

b. Reallotment will occur around September 1 and will result in an increase or decrease in the state's formula-allotted funds for the current year based on a reallotment process applied to the prior year's Title III funds and expenditures. When reallotment results in an increase in funding, such reallocation is subject to allocation procedures specified in §631.32 of the federal regulations. When reallotment results in a decrease in funding, the procedures that follow will be used to recover funds from substate grantees and,

where appropriate, state subcontractors in order to make funds available to the U.S. Department of Labor for reallotment. Any remaining funds would come from the governor's 40 percent funds;

c. Louisiana will apply the same reallotment procedures to substate grantees and state subcontractors that the U.S. Department of Labor applies to the state. Our reallotment policy states that that amount available for reallotment from substate grantees and state subcontractors is equal to the sum of unexpended funds in excess of 20 percent of the prior year's allocation or subgrant amount and all unexpended previous program year funds. For PY 88 allocations and subgrants, 30 percent shall be substituted for 20 percent in the previous sentence. Unexpended reallocated funds at the end of the year will also be subject to the 20 percent limitation on allowable carry forward. Substate grantees and state subcontractors that lose funds through the reallotment process will use their allocation or subgrant amount before reallotment in order to calculate allowable carry forward;

d. In addition, Louisiana will use the reallotment process for substate grantees and, where appropriate, state subcontractors at the end of each program year whether or not the state is subject to a reduction in funding due to reallotment. This will allow the state to deal with significant underexpenditure of funds by individual substate grantees and state subcontractors even when the state maintains a high overall level of expenditures;

e. In the event that Louisiana is not subject to a reduction in funding, but one or more substate grantee(s) or state subcontractor(s) are subject to a reduction based on Louisiana's policy, funds deobligated from such substate grantees will be allocated by formula to the remaining substate grantees who were not subject to a reduction. This allocation will be in addition to any funds reallocated by the U.S. Department of Labor and subsequently allocated to substate areas. Any funds deobligated from state subcontractors as a result of these procedures are subject to regular Title III state obligation procedures.

2. Projected Excess Unexpended Funds

a. Louisiana is subject to a U.S. Department of Labor JTPA Title III reallotment process based on expenditures at the end of each program year. In order to avoid a reduction in funding from such a reallotment, a deobligation procedure has been established;

b. Title III substate grantees and state subcontractors are subject to deobligation of projected excess unexpended funds based on expenditures during the first five months of their subgrant or subcontract period. Projected excess unexpended funds are defined as any amount of projected unexpended funds in excess of 20 percent of a substate grantee's available funds (excluding carry-in funds and any additional funds reallocated during that program year as a result of the U.S. Department of Labor's reallocation process) or 20 percent of a subcontract amount. Projected unexpended funds are total available funds (excluding reallocated funds) less expenditures reported for the first five months and less an amount equal to the higher of the last two months' reported expenditure amounts times the number of months remaining in the subgrant or subcontract period. Expenditure amounts used for this process will be those amounts reported as of the official due date specified by the Louisiana Department of Employment and Training's fiscal section. Funds remaining after deobligation will be subject to all cost category limitations;

c. Substate grantees and state subcontractors will have 15 days from the date they are notified of any amount subject to deobligation to provide documentation to the Louisiana Department of Employment and Training why they should not be subject to such deobligation. The Louisiana Department of Employment and Training may reduce the amount to be deobligated based on acceptance of documentation of corrected expenditure amounts, significant recent obligations not reflected in current reported expenditures, or other appropriate justification;

d. All funds deobligated from substate grantees will be allocated by formula to substate grantees whose total projected unexpended funds did not exceed allowable projected unexpended funds. Funds deobligated from state subcontractors are subject to regular Title III state obligation procedures;

e. This deobligation procedure does not limit the Louisiana Department of Employment and Training's authority to unilaterally deobligate funds from subgrants and subcontractors when it is deemed necessary in order to carry out responsibilities under the Job Training Partnership Act.

C. Reallocation Waiver

The reallocation policies set forth above in §121.A., §121.B.1.d. and e., and §121.B.2. may be waived for SDAs and substate grantees operating under a reorganization plan issued by the Governor pursuant to §106 of the Job Training Partnership Act.

§133. Professional Services

Contracts for professional services (legal, management, auditing, etc.) are allowable with prior written approval of the recipient. Approval must be obtained annually.

Interested persons may submit written comments through the close of business on Friday, February 21, 1992 to: A. C. Wilkinson, Box 94094, Baton Rouge, LA 70804-9094, (504) 342-7621.

A public hearing thereon will be held on February 24, 1992, at 9:30 a.m. in the Office of Labor JTPA Conference Room, (third floor of the Annex Building), 1001 North 23rd Street, Baton Rouge, LA 70804, at which time all interested parties will be given an opportunity to be heard.

Alfreda Tillman Bester
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Title 40 Labor and Employment Part XIII Job Training Partnership Act

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no anticipated implementation costs to local governmental units associated with these proposed amendments. The estimated costs to the Department of Employment and Training for the implementation, preparation and distribution of these amended rules are less than $400.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is not expected to be any effect on the revenue collections by governmental units at the state or local level.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected persons or non-governmental groups. JTPA funds result in job training and employment opportunities for economically disadvantaged individuals, dislocated workers, and other individuals facing serious barriers to employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes will have no impact on competition as the intent of the Job Training Partnership Act is to provide job training in demand occupations to eligible individuals. Job Training Partnership Act participants, per the federal legislation, will not replace persons presently employed.

Alfreda Tillman Bester
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq., particularly La. R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, La. R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to repeal, repromulgate, and amend the Air Quality Regulations, LAC 33:III.Chapter 15, (Log #AQ57).

These proposed changes to the existing emission standards for sulfur dioxide reflect the U.S. Environmental Protection Agency's request for additions to the State Implementation Plan. These additions include continuous monitoring, continuous recordkeeping, and inclusion of all sources of sulfur dioxide, both new and existing.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 15. Emission Standards for Sulfur Dioxide

§1501. Degradation of Existing Emission Quality Restricted

Emissions whose quality as of the effective date of these regulations is higher than the standards set forth herein shall be maintained at the higher quality unless it can be affirmatively demonstrated to the department that a change in quality is justifiable and will not be contrary to the purpose of these regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, LR 18:

§1503. Emission Limitations

As used in this Section, a *three-hour average* means the average emissions for any three consecutive one-hour periods (each commencing on the hour), provided that the number of three-hour periods during which the SO_2 limitation is exceeded is not greater than the number of one-hour periods during which the SO_2 limitation is exceeded.

A. Sulfuric Acid Plants New and Existing. The emissions of sulfur dioxide and acid mist from new sulfuric acid production units which commence construction or modification after August 17, 1971 shall be limited to that specified in LAC 33:III.3232 and 3233, i.e. 4.0 pounds/ton of 100 percent H_2SO_4 (2 kilograms/metric ton) and 0.15 pounds/ton of 100 percent SO_2 (.075 kilograms/metric ton) respectively (three-hour averages). Emissions from existing units shall be limited as follows: SO_2—not more than 2000 ppm by volume (three-hour average); acid mist—not more than 0.5 pounds/ton of 100 percent H_2SO_4 three-hour averages).

B. Sulfur Recovery Plants—New and Existing. The emission of sulfur oxides calculated as sulfur dioxide from a new sulfur recovery plant which commences construction or modification after October 4, 1976 shall be limited to that specified in LAC 33:III.3264.A.2. The emission of sulfur oxides calculated as sulfur dioxide from an existing plant shall be limited to a sulfur dioxide concentration of approximately 1,300 ppm by volume (three-hour averages).

C. All Other Sources—New and Existing not elsewhere discussed. No person shall discharge gases from the subject sources which contain concentrations of SO_2, which exceed 2000 parts per million (ppm) by volume at standard conditions (three-hour average), or any applicable Federal NSPS emission limitation, whichever is more stringent. Small units emitting less than 250 tons per year of sulfur compounds measured as sulfur dioxide may be exempted from the 2000 ppm(v) limitation by the administrative authority.

D. Measurement of Concentrations

1. Analytical Methods. The methods listed in Table 4 or such equivalent method as may be approved by the administrative authority* shall be utilized to determine sulfur dioxide and sulfuric acid mist concentrations in stack gases. These methods are to be used for initial compliance determinations and for additional compliance determinations for those facilities not subject to continuous emission monitoring.

2. Calibration of Equipment Required. Measurement equipment shall be periodically calibrated to comply with minimal American Bureau of Standards Criteria.

TABLE 4
Emissions—Methods of Contaminant Measurement

Emission		Analytical Method
Particulate	1)	Methods 1 (LAC 33:III.6001, 2 (LAC 33:III.6003), 3 (LAC 33:III.6009), 4 (LAC 33:III.6013), 5 (LAC 33:III.6015) or LAC 33:III.3115.
Sulfur Oxides	1)	Seidman, Analytical Chemistry Volume 30, page 1680 (1958),"Determination of Sulfur Oxides in Stack Gases."
	2)	Shell Development Company method for the Determination of Sulfur Dioxide and Sulfur Trioxide PHS 999 AP-13 Appendix B, pages 85-87, "Atmospheric Emissions Sulfuric Acid Manufacturing Processes."
	3)	Reich Test for Sulfur Dioxide, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13 Appendix B, pages 76-80.
	4)	The Modified Monsanto Company Method, "Atmospheric Emissions from Sulfuric Acid Manufacturing Process" PHS 999 AP-13, Appendix B, pages 61-67.
	5)	Test Methods 1 (LAC 33:III.6001, 2 (LAC 33:III.6003), 3 (LAC 33:III.6009), 4 (LAC 33:III.6013), 6 (LAC 33:III.6025), and 8 (LAC 33:III.6045), or LAC 33:III.3115
Oxides of Nitrogen	1)	Test Methods 1 (LAC 33:III.6001, 2 (LAC 33:III.6003), 3 (LAC 33:III.6009), 4 (LAC 33:III.6013), and 7 (LAC 33:III.6033), or LAC 33:III.3115.
Visible Emissions	1)	Method 9 (LAC 33:III.6047)
	2)	Method 22 (LAC 33:III.6079).
Total Fluoride	1)	Methods 1 (LAC 33:III.6001, 2 (LAC 33:III.6003), 3 (LAC 33:III.6009), 13A (LAC 33:III.6057) and 13B (LAC 33:III.6059).
Total Reduced Sulfur (TRS)	1)	Method 16 (LAC 33:III.6065) or LAC 33:III.3115
	2)	Coulometric titration by method specified in NCASI Atmospheric Quality Improvement Technical Bulletin Number 91. (January 1978)
Sulfuric Acid Mist	1)	Test methods 1 (LAC 33:III.6001, 2 (LAC 33:III.6003), 3 (LAC 33:III.6009), 4 (LAC 33:III.6013) 6 (LAC 33:III.6025), and 8 (LAC 33:III.6045), or LAC 33:III.3115.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987) amended by the Office of Air Quality and Radiation Protection, LR 18:

§1505. Variances

If upon written application of the responsible person or persons the administrative authority* finds that by reason of exceptional circumstances strict conformity with any provisions of these regulations would cause undue hardship, would be unreasonable, impractical or not feasible under the circumstances, the administrative authority* may permit a variance from these regulations upon such conditions and with such time limitations as it may prescribe for prevention, control or abatement of air pollution in harmony with the intent of the Act. No variance may permit or authorize the maintenance of a nuisance, or a danger to public health or safety.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, LR 18:

§1507. Exceptions

A. Start-up Provisions

1. A four-hour (continuous) start-up exemption from the emission limitations of LAC 33:III.1503.A may be authorized by the administrative authority for plants not subject to LAC 33:III.3232 and 3233 which have been shut down. A report in writing explaining the conditions and duration of the start-up and listing the steps necessary to remedy, prevent and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

2. This provision is applicable to infrequent start-ups only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition the duration of excess emission must be minimized and no ambient air quality standard may be jeopardized.

B. On-Line Operating Adjustments

1. A four-hour (continuous) exemption from emission limitations of LAC 33:III.1503.A may be extended by the administrative authority to plants not subject to LAC 33:III.3232 and 3233 where upsets have caused excessive emissions and on-line operating changes will eliminate a temporary condition. A report, in writing, explaining the conditions and duration of the upset and listing the steps necessary to remedy, prevent and limit the excess emission shall be submitted to the administrative authority within seven calendar days of the occurrence.

2. This provision is applicable to infrequent on-line adjustments only. Before the exemption can be granted the administrative authority must determine the excess emissions were not the result of failure to maintain or repair equipment. In addition, the duration of excess emissions must be minimized and no ambient air quality standard may be jeopardized.

C. Bubble Concept. The administrative authority* may exempt a source from the emission limitations of LAC 33:III.1503 if the owner or operator demonstrates that a "bubble concept" will be applied as defined in LAC 33:III.111.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, LR 18:

§1509. Reduced Sulfur Compounds (New and Existing Sources)

All refinery process gas streams or any other process gas stream that contains sulfur compounds measured as hydrogen sulfide shall be controlled by flaring or combustion. Small units emitting less than 10 tons per year as hydrogen sulfide may be exempted from this Section by the administrative authority unless a more stringent Federal NSPS limitation is applicable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, LR 18:

§1511. Continuous Emissions Monitoring

The owner or operator of any facility subject to the provisions of this Chapter shall install, calibrate, maintain and operate a measurement system or systems, installed in accordance with the manufacturer's instructions, for continuously monitoring sulfur dioxide concentrations in the effluent

of each process subject to this Chapter consistent with LAC 33:III.915. The administrative authority shall not require continuous monitoring for sources emitting less than 40 tons per year of sulfur dioxide into the atmosphere or as identified in 40 CFR, Part 51, Appendix "P." "Continuous monitoring" is defined as sampling and recording of at least one measurement of sulfur dioxide concentration in each 15-minute period from the effluent of each affected process or the emission control system serving each affected process.

These measurement systems shall be certified according to the performance specifications in LAC 33:III.6105 and quality assured by the procedures in 40 CFR 60, Appendix "F."

As an alternative to continuous monitoring of sulfur dioxide emissions the administrative authority* may approve demonstration of compliance by analysis of the fuel sulfur content and calculation of sulfur dioxide emissions for sources which burn fuel gas or refinery gas in multiple combustion units or utility boilers which burn 90 percent or greater natural gas.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:

§1513. Recordkeeping and Reporting

The owner or operator of any facility subject to the provisions of this Chapter shall record and retain at the site for at least two years the data required to demonstrate compliance with or exemption from these provisions. All emissions data shall be recorded in the units of the standard using the averaging time of the standard. These data shall be made available to a representative of the department or the U.S. EPA on request.

Compliance data shall be reported to the department annually in accordance with LAC 33:III.918. In addition, quarterly reports of three-hour excess emissions and prompt reports of emergency occurrences in accordance with LAC 33:III.927 shall be made.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:

These proposed regulations are to become effective on April 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register.*

A public hearing will be held on February 27, 1992 at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than February 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by the Log number AQ57.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Emission Standards for Sulfur Dioxide

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected costs, or savings, to state or local governments expected from the implementation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected effect on revenue collections of state or local governmental units from the implementation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Asst. Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.3525, (**Log #AQ44**).

This proposed regulation is identical to 40 CFR 60, Supbart AAa with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). It does not deviate from the CFR except for the above referenced format. It defines the particulate emission standards for some steel plants, monitoring requirements, test methods and procedures, and recordkeeping and reporting requirements. See *Federal Register* dated September 15, 1987, 52 FR 34874, #178.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air
Chapter 31. Standards of Performance for New Stationary Sources

* * *

§3525. Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983 (Subpart AAa)

A. Applicability and Designation of Affected Facility

1. The provisions of this Section are applicable to the

following affected facilities in steel plants that produce carbon, alloy, or specialty steels: electric arc furnaces, argon-oxygen decarburization vessels, and dust-handling systems.

2. The provisions of this Section apply to each affected facility identified in Subsection A.1 of this Section that commences construction, modification, or reconstruction after August 17, 1983.

B. Definitions. As used in this Section, all terms not defined herein shall have the meaning given them in Subchapter A of this Chapter, and the following terms shall have the specific meanings given them.

Argon-oxygen Decarburization Vessel (AOD vessel)—any closed-bottom, refractory-lined converter vessel with submerged tuyeres through which gaseous mixtures containing argon and oxygen or nitrogen may be blown into molten steel for further refining.

Capture System—the equipment (including but not limited to ducts, hoods, fans, and dampers) used to capture or transport particulate matter generated by an electric arc furnace or AOD vessel to the air pollution control device.

Charge—the addition of iron and steel scrap or other materials into the top of an electric arc furnace or the addition of molten steel or other materials into the top of an AOD vessel.

Control Device—the air pollution control equipment used to remove particulate matter from the effluent gas stream generated by an electric arc furnace or AOD vessel.

Direct-shell Evacuation Control System (DEC System)—a system that maintains a negative pressure within the electric arc furnace above the slag or metal and ducts emissions to the control device.

Dust-handling System—equipment used to handle particulate matter collected by the control device for an electric arc furnace or AOD vessel subject to this Section. For the purposes of this Section, the dust-handling system shall consist of the control device dust hoppers, the dust-conveying equipment, any central dust storage equipment, the dust-treating equipment (e.g., pug mill, pelletizer), dust transfer equipment (from storage to truck), and any secondary control devices used with the dust transfer equipment.

Electric Arc Furnace (EAF)—furnace that produces molten steel and heats the charge materials with electric arcs from carbon electrodes. For the purposes of this Section, an EAF shall consist of the furnace shell and roof and the transformer. Furnaces that continuously feed direct-reduced iron ore pellets as the primary source of iron are not affected facilities within the scope of this definition.

Heat Cycle—the period beginning when scrap is charged to an empty EAF and ending when the EAF tap is completed or beginning when molten steel is charged to an empty AOD vessel and ending when the AOD vessel tap is completed.

Melting—that phase of the steel production cycle during which the iron and steel scrap is heated to the molten state.

Negative-pressure Fabric Filter—a fabric filter with the fans on the downstream side of the filter bags.

Positive-pressure Fabric Filter—a fabric filter with the fans on the upstream side of the filter bags.

Refining—that phase of the steel production cycle during which undesirable elements are removed from the molten steel and alloys are added to reach the final metal chemistry.

Shop—the building which houses one or more EAF's or AOD vessels.

Shop Opacity—the arithmetic average of 24 observations of the opacity of emissions from the shop taken in accordance with LAC 33:III.6047 of the Division's Source Test Manual.

Tap—the pouring of molten steel from an EAF or AOD vessel.

C. Standard for Particulate Matter

1. On and after the date on which the performance test required to be conducted by LAC 33:III.3115 is completed, no owner or operator subject to the provisions of this Subsection shall cause to be discharged into the atmosphere from an EAF or an AOD vessel any gases which:

a. exit from a control device and contain particulate matter in excess of 12 mg/dscm (0.0052 gr/dscf);

b. exit from a control device and exhibit three percent opacity or greater; and

c. exit from a shop and, due solely to the operations of any affected EAF(s) or AOD vessel(s), exhibit six percent opacity or greater.

2. On and after the date on which the performance test required to be conducted by LAC 33:III.3115 is completed, no owner or operator subject to the provisions of this Section shall cause to be discharged into the atmosphere from the dust-handling system any gases that exhibit 10 percent opacity or greater.

D. Emission Monitoring

1. Except as provided under Subsection D.2 and 3 of this Section, a continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device(s) shall be installed, calibrated, maintained, and operated by the owner or operator subject to the provisions of this Section.

2. No continuous monitoring system shall be required on any control device serving the dust-handling system.

3. A continuous monitoring system for the measurement of opacity is not required on modular, multiple-stack, negative-pressure or positive-pressure fabric filters if observations of the opacity of the visible emissions from the control device are performed by a certified visible emission observer as follows: Visible emission observations are conducted at least once per day when the furnace is operating in the melting and refining period. These observations shall be taken in accordance with Method 9 (LAC 33:III.6047), and, for at least three six-minute periods, the opacity shall be recorded for any point(s) where visible emissions are observed. Where it is possible to determine that a number of visible emission sites relate to only one incident of the visible emissions, only one set of three six-minute observations will be required. In this case, Method 9 (LAC 33:III.6047) observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident. Records shall be maintained of any six-minute average that is in excess of the emission limit specified in Subsection C.1 of this Section.

E. Monitoring of Operations

1. The owner or operator subject to the provisions of this Section shall maintain records of the following information:

a. all data obtained under Subsection E.2 of this Section; and

b. all monthly operational status inspections per-

formed under Subsection E.3 of this Section.

2. Except as provided under Subsection E.4 of this Section, the owner or operator subject to the provisions of this Subsection shall check and record on a once-per-shift basis the furnace static pressure (if DEC system is in use) and either

a. check and record the control system fan motor amperes and damper position on a once-per-shift basis; or

b. install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood. The monitoring device(s) may be installed in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of ± 10 percent over its normal operating range and shall be calibrated according to the manufacturer's instructions. The administrative authority may require the owner or operator to demonstrate the accuracy of the monitoring device(s) relative to LAC 33:III.6001 and LAC 33:III.6003 of the Division's Source Test Manual.

3. When the owner or operator of an affected facility is required to demonstrate compliance with the standards under Subsection C.1.c of this Section; and at any other time the administrative authority may require that either the control system fan motor amperes and all damper positions, or the volumetric flow rate through each separately ducted hood, shall be determined during all periods in which a hood is operated for the purpose of capturing emissions from the affected facility subject to Subsection E.2.a or b of this Section. The owner or operator may petition the administrative authority for reestablishment of these parameters whenever the owner or operator can demonstrate to the administrative authority's satisfaction that the affected facility operating conditions upon which the parameters were previously established are no longer applicable. The values of these parameters as determined during the most recent demonstration of compliance shall be maintained at the required level for each applicable period. Operation at other than baseline values may be subject to the requirements of Subsection G.3 of this Section.

4. The owner or operator shall perform monthly operational status inspections of the equipment that is important to the performance of the total capture system (i.e., pressure sensors, dampers, and damper switches). This inspection shall include observations of the physical appearance of the equipment (e.g., presence of holes in ductwork or hoods, flow constrictions caused by dents or accumulated dust in ductwork, and fan erosion). Any deficiencies shall be noted and proper maintenance performed in a timely manner.

5. The owner or operator may petition the administrative authority to approve any alternative to monthly operational status inspections that will provide a continuous record of the operation of each emission capture system.

6. If emissions during any phase of the heat time are controlled by the use of a DEC system, the owner or operator shall install, calibrate, and maintain a monitoring device that allows the pressure in the free space inside the EAF to be monitored. The monitoring device may be installed in any appropriate location in the EAF or DEC duct prior to the introduction of ambient air designed to ensure that reproducible results will be obtained. The pressure monitoring device shall have an accuracy of ± 5 mm of water gauge over its normal operating range and shall be calibrated according to the manufacturer's instructions.

7. When the owner or operator of an EAF controlled by a DEC is required to demonstrate compliance with the standard under Subsection C.1.c of this Section, and at any other time the administrative authority may require, the pressure in the free space inside the furnace shall be determined during the melting and refining period(s) using the monitoring device required under Subsection E.6 of this Section. The owner or operator may petition the administrative authority for reestablishment of the 15-minute integrated average of the pressure whenever the owner or operator can demonstrate to the administrative authority's satisfaction that the EAF operating conditions upon which the pressures were previously established are no longer applicable. The pressure determined during the most recent demonstration of compliance shall be maintained at all times when the EAF is operating in a meltdown and refining period. Operation at higher pressures may be considered by the administrative authority to be unacceptable operation and maintenance of the affected facility.

8. During any performance test required under LAC 33:III.3115, and for any report thereof required by Subsection F.4 of this Section, or to determine compliance with Subsection C.1.c of this Section, the owner or operator shall monitor the following information for all heats covered by the test:

a. charge weights and materials, and tap weights and materials;

b. heat times, including start and stop times, and a log of process operation, including periods of no operation during testing and the pressure inside an EAF when direct-shell evacuation control systems are used;

c. control device operation log; and

d. continuous monitor or Reference Method 9 data.

F. Test Methods and Procedures

1. During performance tests required in LAC 33:III.3115 the owner or operator shall not add gaseous diluents to the effluent gas stream after the fabric in any pressurized fabric filter collector, unless the amount of dilution is separately determined and considered in the determination of emissions.

2. When emissions from any EAF(s) or AOD vessel(s) are combined with emissions from facilities not subject to the provisions of this Section but controlled by a common capture system and control device, the owner or operator shall use either or both of the following procedures during a performance test (see also Subsection G.5 of this Section):

a. determine compliance using the combined emissions;

b. use a method that is acceptable to the administrative authority and that compensates for the emissions from the facilities not subject to the provisions of this Section. The administrative authority must indicate its acceptance of the alternative method in writing.

3. When emission from any EAF(s) or AOD vessel(s) are combined with emissions from facilities not subject to the provisions of this Section, the owner or operator shall demonstrate compliance with LAC 33:III.3512.A.3 based on emissions from only the affected facility(ies).

4. In conducting the performance tests required in LAC 33:III.3115, the owner or operator shall use as reference methods and procedures the test methods in the Division's Source Test Manual of this Part, or other methods and procedures as specified in this Section, except as provided in LAC 33:III.3115.B.

5. The owner or operator shall determine compliance

with the particulate matter standards in Subsection C as follows.

a. Method 5 shall be used for negative-pressure fabric filters and other types of control devices and Method 5D shall be used for positive-pressure fabric filters to determine the particulate matter concentration and volumetric flow rate of the effluent gas. The sampling time and sample volume for each run shall be at least four hours and 4.50 dscm (160 dscf) and, when a single EAF or AOD vessel is sampled, the sampling time shall include an integral number of heats.

b. When more than one control device serves the EAF(s) being tested, the concentration of particulate matter shall be determined using the following equation:

$$C_{st} = \frac{\left[\sum_{i=1}^{n} (C_{si}\ Q_{sdi})\right]}{\sum_{i=1}^{n} Q_{sdi}}$$

where:

C_{st} = average concentration of particulate matter, mg/dscm (gr/dscf).

C_{si} = concentration of particulate matter from control device "i", mg/dscm (gr/dscf).

n = total number of control devices tested.

Q_{sdi} = volumetric flow rate of stack gas from control device "i", dscm/hr (dscf/hr).

c. Method 9 and the procedures of LAC 33:III.3121 shall be used to determine opacity.

d. To demonstrate compliance with Subsection C.1.a, b and c of this Section, the test runs shall be conducted concurrently, unless inclement weather interferes. If inclement weather prevents concurrent testing, only the opacity test may be delayed.

6. To comply with Subsection E.3, 6, 7 and 8 of this Section, the owner or operator shall obtain the information required in these paragraphs during the particulate matter runs.

7. Any control device subject to the provisions of the Section shall be designed and constructed to allow measurement of emissions using applicable test methods and procedures.

8. Where emissions from any EAF(s) or AOD vessel(s) are combined with emissions from facilities not subject to the provisions of this Section but controlled by a common capture system and control device, the owner or operator may use any of the following procedures during a performance test:

a. base compliance on control of the combined emissions, or;

b. utilize a method deemed acceptable by the administrative authority in writing that compensates for the emissions from the facilities not subject to the provisions of this Section, or;

c. any combination of the criteria of Subsections F.8.a and b of this Section.

9. Where emissions from any EAF(s) or AOD vessel(s) are combined with emissions from facilities not subject to the provisions of this Section, determinations of compliance with Subsection C.1.c of this Section will only be based upon emissions originating from the affected facility(ies).

10. Unless the presence of inclement weather makes concurrent testing infeasible, the owner or operator shall conduct concurrently the performance tests required under 33:III.3115 to demonstrate compliance with Subsection C.1.a, b and c of this Section.

G. Recordkeeping and Reporting Requirements

1. Records of the measurements required in Subsection E of this Section must be retained for at least two years following the date of the measurement.

2. Each owner or operator shall submit a written report of exceedances of the control device opacity to the administrative authority semi-annually. For the purposes of these reports, exceedances are defined as all six-minute periods during which the average opacity is three percent or greater.

3. Operation at a furnace static pressure that exceeds the value established under Subsection E.7 of this Section and either operation of control system fan motor amperes at values exceeding ±15 percent of the value established under Subsection E.3 of this Section or operation at flow rates lower than those established under Subsection E.3 of this Section may be considered by the administrative authority to be unacceptable operation and maintenance of the affected facility. Operation at such values shall be reported to the administrative authority semiannually.

4. [Reserved]

5. When the owner or operator of an EAF or AOD is required to demonstrate compliance with the standard under Subsection F.2.b of this Section or a combination of Subsection F.2.a and b of this Section the owner or operator shall obtain approval from the administrative authority of the procedure(s) that will be used to determine compliance. Notification of the procedure(s) to be used must be postmarked 30 days prior to the performance test.

6. For the purpose of this Section, the owner or operator shall conduct the demonstration of compliance with Subsection C.1 of this Section and furnish the administrative authority a written report of the results of the test. This report shall include the following information:

a. facility name and address;

b. plant representative;

c. make and model of process, control device, and continuous monitoring equipment;

d. flow diagram of process and emission capture equipment including other equipment or process(es) ducted to the same control device;

e. rated (design) capacity of process equipment;

f. those data required under Subsection E.8 of this Section;

i. list of charge and tap weights and materials;

ii. heat times and process log;

iii control device operation log; and

iv. continuous monitor or Reference Method 9 data.

g. test dates and test times;

h. test company;

i. test company representative;

j. test observers from outside agency;

k. description of test methodology used, including any deviation from standard reference methods;

l. schematic of sampling location;

m. number of sampling points;

n. description of sampling equipment;

o. listing of sampling equipment calibrations and procedures;

p. field and laboratory data sheets;
q. description of sample recovery procedures;
r. sampling equipment leak check results;
s. description of quality assurance procedures;
t. description of analytical procedures;
u. notation of sample blank corrections; and
v. sample emission calculations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 18:

These proposed regulations are to become effective on April 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on February 27, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than February 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log #AQ44.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983 (Subpart AAa) AQ 44 (LAC 33:III.3525)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected costs, or savings, to state or local governments expected from the implementation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected effect on revenue collections of state or local governmental units from the implementation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality
Office of Air Quality and Radiation Protection

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.3795. (Log #AQ42).

This proposed rule is identical to 40 CFR 60. Subpart AAA with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). This rule does not deviate from the CFR except for the above referenced format. The rule defined particulate emission standards for wood heaters, compliance and certification requirements, test methods and procedures, and recordkeeping and reporting requirements. See *Federal Register* dated February 26, 1988, 54 FR 5873, #38.

These proposed regulations are to become effective on April 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on February 27, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed regulations.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than February 28, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by the Log #AQ42. Check or money order for AQ42 is required in advance. This proposed regulation is available for inspection at the following locations from 8 a.m. until 4:30 p.m.

Office of the State Register, Box 94095, Baton Rouge, LA 70804-9095 (504) 342-5015;

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 2945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Eppler Road, Lafayette, LA 70505.

J. Terry Ryder
Assistant Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Standards of Performance for New Residential Wood Heaters (Subpart AAA) AQ 42

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected costs, or savings, to state or local governments expected from the implementation of the proposed rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no expected effect on revenue collections of state or local governmental units from the implementation of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There is no expected incremental cost or economic benefits to directly affected persons or governmental groups from the implementation of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no expected effect on competition or employment from the implementation of the proposed rule.

Mike D. McDaniel, Ph.D.
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Health and Hospitals
Board of Veterinary Medicine

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1511 et seq., notice is hereby given that the Board of Veterinary Medicine intends to amend its fees as follows:

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part LXXXV. Veterinarians

Chapter 5. Fees

§501. General Fees

The board hereby adopts and establishes the following fees:

A. Examination fee; National Board Examination (NBE)	$150
B. Examination fee; Clinical Competency Test (CCT)	$125
C. Examination fee; Combination NBE and CCT	$240
D. Examination fee; State Board Examination	$150
E. Original license fee	$100
F. Annual renewal of license fee	$125
G. Inactive license status fee	$ 75
H. Duplicate license fee	$ 25

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 18:

Interested persons may submit written comments on the proposed rule until 12 noon, January 31, 1992 at the following address: Virginia A. Anthony, Executive Director, Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203.

Virginia Anthony
Executive Director

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: General Fees

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendment will result in any additional costs to the State Board of Veterinary Medicine.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

An increase in revenue collections of approximately $55,000 - $58,000 each fiscal year is anticipated from the implementation of §501.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is anticipated that the implementation of the proposed rule amendment §501 will cost each licensee $75. Examinees' costs are increased by $50. Paperwork, workload of persons holding licenses or registrations issued by the board will not be impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rule amendment will have any impact on competition or employment in either the public or private sector.

Virginia A. Anthony
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Hospitals

Louisiana Health Care Authority

Under the authority of Act 390 of 1991 and in accordance with the provisions of R.S. 49:950 et seq., the Louisiana Health Care Authority proposes to adopt the following notice of intent.

Annual Service Agreement

This agreement is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) and enumerates specific agreements reached with regard to administrative operations of these two entities during State Fiscal Year 1991-1992. This agreement is a Cooperative Endeavor Agreement entered into by DHH and LHCA in accordance with provisions of Article VII, Section 14C of the Louisiana Constitution.

I. Background

In 1989, the Louisiana Legislature enacted Act No.

444 of the 1989 Regular Session of the Legislature which created the Louisiana Health Care Authority to develop a comprehensive plan to address the need for changes in the organization and governance of the state's charity hospital system in order to address the system's deficiencies and maintain and enhance the quality of health care to the indigent and uninsured citizens of Louisiana.

In late 1989 and early 1990, the governing council of the Louisiana Health Care Authority developed the comprehensive plan and presented it to the legislature on March 1, 1990, in accordance with the mandate of Act No. 444 of the 1989 Regular Session of the Legislature.

As a result of the comprehensive plan the legislature enacted Act No. 855 of the 1990 Regular Session of the Legislature which provided for the eventual transfer of the charity hospital system from the Department of Health and Hospitals to the Louisiana Health Care Authority, subject to additional strategic planning by the Louisiana Health Care Authority governing board and local boards.

In late 1990 and early 1991, the governing board of the Louisiana Health Care Authority, in consultation with the local boards of each of the state's charity hospitals, developed a strategic five-year operational plan in accordance with the mandate of Act No. 855 of the 1990 Regular Session of the Legislature.

On March 15, 1991, the Louisiana Health Care Authority presented a strategic five-year operational plan to the legislature, which addressed the revitalization of the charity hospital system's deteriorated infrastructure through the use of revenue bond financing, improved management through adoption of procedures common in the public hospital sector, stabilized medical residency and other health education programs, improved retention of professional staff, created centers of medical excellence, improved quality of care, avoided a state funding crisis, and created a stimulus for economic development by transferring the state's charity hospital system from the Department of Health and Hospitals to the Louisiana Health Care Authority.

The legislature enacted Act 390 of the 1991 Regular Session of the Legislature which approved and adopted the strategic five-year operational plan proposed by the Louisiana Health Care Authority and which further provided for the transfer of the charity hospital system from the Department of Health and Hospitals to the Louisiana Health Care Authority, a political subdivision of the state by executive order of the governor, on or before January 1, 1992.

The following indicates the organizational impact of Act 390 of 1991.

A. Previous Departmental Structure

DHH, prior to the enactment of Act 390, included the following offices:

1. Office of Charity Hospital of Louisiana at New Orleans (OCHNO),
2. Office of Hospitals (OH),
3. Office of Human Services (OHS),
4. Office of Public Health (OPH),
5. Office of Management and Finance (OM&F),
6. Office of the Secretary (OS).

B. Offices Transferred

In accordance with Act 390, the following offices were retained in DHH:

1. Office of Public Health (OPH),
2. Office of Human Services (OHS),
3. Office of the Secretary (OS),
4. Office of Management and Finance (OM&F).

The Emergency Medical Services Program in the Office of Hospitals was transferred to the Office of Public Health in DHH. Two long-term care facilities in the Office of Hospitals, New Orleans Home and Rehabilitation Center and Villa Feliciana Chronic Disease Hospital and Rehabilitation Center, were transferred to the Office of Human Services.

The following offices were transferred to the LHCA:

1. Office of Hospital (OH),
2. Office of Charity Hospital of Louisiana at New Orleans (OCHNO).

II. General Provisions - Annual Service Agreement

The Louisiana Health Care Authority acknowledges that the Department of Health and Hospitals through its offices is legally responsible for the development and provision of health and medical services for the prevention of disease for all the citizens of Louisiana, as well as the provision of health and medical services for the uninsured and medically indigent citizens of Louisiana. By entering into this agreement, the LHCA is agreeing to provide inpatient and outpatient hospital services to the uninsured and medically indigent citizens on behalf of the Department of Health and Hospitals. The LHCA further acknowledges that the provision of services to the underinsured and medically indigent is its highest priority.

For purposes of this agreement the following definitions will apply:

A. *Adequate Services*-means the provision of any services provided at each of the Medical Centers transferred to the LHCA in accordance with Act 390 of the 1991 Regular Legislative Session, on the date of transfer, as well as any expanded services budgeted in accordance with Act 12 of 1991 (General Appropriations Act) to any bona fide resident and taxpayer of the State of Louisiana determined to be medically indigent. The medically indigent shall be admitted for any form of treatment. Those persons who are determined not to be medically indigent shall be admitted on a space available basis and shall be reasonably charged for treatment or service received. In no event shall emergency treatment be denied to anyone.

B. *Medically Indigent*-means any bona fide resident of the State of Louisiana whose family unit size and gross income is equal to or less than 200 percent of the Federal Poverty Income Guidelines for that size family unit rounded up to the nearest thousand dollars.

C. *Overcollections*-means any monies from Medicare, Medicaid or other third party payor collected by or on behalf of the Medical Centers operated by the LHCA in excess of the amounts budgeted in Act 12 of 1991 at the beginning of the fiscal year for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

D. *Licensed Beds*-means the number of beds in each medical center licensed by the Bureau of Health Services Financing and certified for participation in the Medicaid and Medicare programs.

The LHCA shall secure written approval from the secretary of DHH, at least 60 days in advance of any plans to reduce, eliminate or shift any programs and services or the establishment of centers of excellence which require shifting of services provided on the date of this agreement. DHH will not arbitrarily withhold approval as long as adequate services

continue to be provided and the change does not adversely impact any of the DHH's budget units.

The LHCA agrees not to use the proceeds from its facilities to construct, operate or fund a health care facility or substantial portion thereof which primarily treats insured patients other than those covered by Medicare and Medicaid.

The LHCA further agrees that the secretary of the Department of Health and Hospitals shall be responsible for monitoring the service agreement and promptly reporting any failure to comply with the agreement to the governor and to the Joint Committee on Health and Welfare and the Joint Legislative Committee Budget. Prior to such notification the secretary of DHH shall provide written notice 30 days in advance to the CEO and LHCA board of failure to comply with the agreement.

DHH agrees to implement and manage the Community Based and Rural Health Care Program on behalf of the Louisiana Health Care Authority (Act 394).

The LHCA agrees to make every attempt to assure prompt access to emergency services and to attempt to reduce waiting times for outpatient services. Prenatal and HIV clinics shall be given top priority in meeting this mandate.

III. Financing Arrangements - Annual Service Agreement

A. Administrative costs of the LHCA as well as costs associated with the provision of professional services currently budgeted in DHH/OS will continue to be paid by DHH during FY 91-92. These costs specifically include salaries and related benefits for the incumbents in the positions identified for transfer up to the amount budgeted in accordance with Act 12 of 1991. Salaries and related benefits for any additional LHCA employees, space rental, moving costs, equipment and other related LHCA start up costs not to exceed $900,000 in FY 91-92 will be paid by DHH. Effective FY 92-93, administrative costs for the LHCA shall be included in the LHCA budget request.

B. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas or amend the Medicaid State Plan as it relates to inpatient and outpatient hospital services without prior approval of the LHCA CEO.

C. The LHCA agrees not to process any budget adjustment request (BA-7) to increase the expenditure authority of the LHCA or any of its facilities without prior written approval of the secretary of DHH.

D. DHH agrees not to process any BA-7's where the means of financing would reflect use of overcollections by the LHCA or any of its facilities without prior written approval of the LHCA CEO except for the BA-7 to budget for those items contemplated during the FY 91-92 budget process, LHCA administrative costs, as well as any funds flowing to the LHCA or its facilites as a result of implementation of Act 617 (Medicaid Provider Contributions).

E. DHH and LHCA agree that no later than March 1, 1992 and annually thereafter, a meeting will be held to determine an amount to be transferred from the Louisiana Health Care Authority to the Department of Health and Hospitals which shall be the amount of projected over-collections to be received by the authority which are necessary to finance the Medicaid program. For FY 91-92, this amount shall be at least $128 million plus any subsequent adjustments approved by the CEO of LHCA and secretary of DHH and by the Joint Legislative Committee on the Budget and/or the commissioner of administration. For FY 91-92, the LHCA agrees that any over-collections shall first be used to offset the requirements of the Medicaid Program.

F. LHCA shall not shift monies specifically earmarked in the budget process to alternative uses without prior written approval from the secretary of the Department of Health and Hospitals.

This specifically includes:

EKL - Eden Park, North Baton Rouge, South Baton Rouge Clinics
- AIDS Outpatient Clinic

UMC - AIDS Outpatient Clinic

CHNO - AIDS Outpatient Clinic
- WIC
- Health Clinic Contracts
- Nurse Stipend

G. In the event the LHCA anticipates a medical center failing to collect Medicare, Medicaid, and other third party collections and anticipates using the pooling authority grant in Act 390, the LHCA CEO shall immediately notify, in writing, the secretary of DHH if such pooling would impact the ability of the LHCA to meet the transfer requirements spelled out in E. above. In this regard, the LHCA agrees to provide monthly reports detailing collections by source of payment for each of its medical centers.

H. With regard to collections from those persons receiving inpatient services identified as self pay, the LHCA agrees to determine the amount of such collections based upon DHH Policy No. 4600-77 (DHH Liability Limitation Policy).

I. The LHCA agrees to proceed with implementation of the provisions of R.S. 46:6 as amended by Act 893 of 1991 (Minimum Charges).

J. For any costs not otherwise specified herein, it is agreed by DHH and LHCA that the cost of operating any unit in either agency will be paid by the agency budgeted that cost. It is also agreed that each agency will be billed their proportionate share of the costs of each unit based on the approved cost allocation plan for that unit.

IV. Revisions and Resolution of Disputes

LHCA and DHH agree that it may become necessary to change parts of this Annual Service Agreement to reflect changing needs of each agency, new laws, regulations, etc. Accordingly, it is agreed that either agency may request discussion of proposed amendments as needed. It is further agreed that both agencies will work to assure that disputes are resolved at the lowest possible level.

Comments regarding the proposed rule should be addressed to Mr. Charles F. Castille, Acting Chief Executive Officer, Louisiana Health Care Authority, Box 629, Baton Rouge, LA 70821. A public hearing on this proposed rule will be held on February 28, 1992 at 1:30 p.m. in the first floor auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA.

Charles F. Castille
Acting Chief Executive Officer

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: DHH-LHCA Annual Service Agreement For FY 1991

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Administrative costs associated with the LHCA will be paid by DHH-Office of the Secretary for FY 91-92 in accordance with the service agreement. These funds, which cannot exceed the $900,000 included in the current budget, will be used for salaries, space rental, moving costs, equipment, and other related start-up costs. Administrative costs for the LHCA will be included in the LHCA budget request in subsequent years.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or benefits to non-governmental persons or entities. It is anticipated that the LHCA will transfer projected overcollections of non-general fund revenues to DHH to finance the Medicaid Program. It is estimated that this amount will be at least $128 million in FY 91-92 and will be determined annually thereafter. Although Act 390 of 1991 specifies that such overcollections shall be dedicated first to the acquisition of hospital equipment and debt service for LHCA facilities and second to the elimination of deficits in the Medicaid Program, DHH and LHCA have jointly agreed to give the Medicaid Program priority in the use of overcollections for FY 91-92. It is the opinion of DHH that this is in compliance with legislative intent as specified by language in the general appropriations act.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no effects on competition or employment.

Charles Castille
Acting CEO, LHCA

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Under the authority of R.S. 40:4 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer of the Department of Health and Hospitals, Office of Public Health, hereby proposes to amend Chapter 1 (General Provisions) of the Sanitary Code. This amendment is necessary so as to properly refer individuals to any of the regulations which implement the enforcement provisions of R.S. 40:5.9 (part of Act # 537 of 1991).

LAC 48:V.7701(B) relative to the Drinking Water Program currently managed by the Office of Public Health (OPH) [formerly the Office of Preventive and Public Health Services (OPPHS)], states in part that "Procedures used to enforce OPPHS regulations embodied in Chapter 12 of the Louisiana Sanitary Code are described in Chapter 1 of that code." Chapter 1 (General Provisions) of the Sanitary Code details Administrative Enforcement Procedures for the various regulations contained within the Sanitary Code. Chapter 12 (Water Supplies) of the Sanitary Code contains the majority of the regulations relative to public water systems.

R.S. 40:5.9 (part of Act # 537 of 1991) authorizes the state health officer to issue administrative orders and civil penalties to non-compliant public water systems. It further authorizes the state health officer to promulgate rules which delineate a procedure for calculating the monetary amount of any civil penalty assessment, such rules also being proposed today and referred to as the "Civil Penalty Assessment Rule" and "Accompanying Guidelines to the Civil Penalty Assessment Rule." If adopted as proposed, the "Civil Penalty Assessment Rule" and "Accompanying Guidelines to the Civil Penalty Assessment Rule" are to be contained as appendices within Chapter 12 (Water Supplies) of the Sanitary Code.

R.S. 40:5.9 (A)(1) states in part that "The power to issue an order ... is in addition to any other remedy afforded to the state health officer by law." With this in mind then, the state health officer is empowered to either utilize the Administrative Enforcement Procedures contained in Chapter 1 (General Provisions) of the Sanitary Code and/or he may utilize the enforcement procedures outlined in R.S. 40:5.9.

The proposed amendments are to become effective on April 20, 1992, or as soon thereafter as practical upon publication as a rule in the *Louisiana Register.*

For the above stated reasons, Chapter 1 is proposed to be amended as follows:

Section 1:007-23 is amended and reenacted as follows:

1:007-23 Nothing herein shall be construed to affect, alter, delay or interfere with the utilization of the civil, judicial, and criminal enforcement procedures provided for in LSA - R.S. 40:4, 40:5, and 40:6.

Section 1:007-24 is enacted as follows:

1:007-24 When the state health officer chooses to utilize the administrative order/civil penalty authority granted within LSA - R.S. 40:5.9 relative to violations applicable to public water systems, the regulations which implement the enforcement provisions of this law are embodied within Chapter 12 (Water Supplies) of this Code.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted no later than March 9, 1992 to Mr. C. Russell Rader, P.E., Chief Engineer, Engineering Services Section, Office of Public Health, Department of Health and Hospitals, Box 60630 - Room 403, New Orleans, LA 70160. He may be contacted at the address above, or telephone (504) 568-5100.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Chapter 1 (General Provisions) State Sanitary Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no projected costs or savings associated with this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL 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)

The proposed rule should have no impact on competition and employment.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

In accordance with R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer is proposing that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units" be made:

Amend the listing to include additional manufacturer and associated plant model(s)/series, specified as follows:

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
R_2F_4 Engineering, Inc.	"Amberjack"	
Box 41086	5	500 GPD
Baton Rouge, LA 70835-1086	10	1000 GPD
(504) 929-8846	15	1500 GPD
	"Redfish" ("STAND ALONE" UNITS ONLY)	
	5	500 GPD
	10	1000 GPD
	15	1500 GPD

The specified change is in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Comments regarding the proposed rule should be addressed to Joel L. Nitzkin, M.D., D.P.A., Director, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

A public review hearing will be held on February 28, 1992 at 10:30 a.m. in the First Floor Auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA to hear comments on the proposed rule.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: "Mechanical Wastewater Treatment Plants for Homes — Acceptable Units;" Amended Listing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implementation costs.

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 NON-GOVERNMENTAL GROUPS (Summary)

The consumer will be afforded a wider selection of products — thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Competition will be stimulated by the presence of the new product. Effect on employment cannot be estimated.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

The Department of Health and Hospitals, Office of Public Health, has exercised provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and has amended, in part, Chapter XIII of *Louisiana Sanitary Code*, more specifically as follows:

Re-Number 13:013 as 13:013.1

Add 13:013.2 to read as follows:

Individual sewage systems, other than conventional septic tank systems, e.g., septic tanks followed by subsurface disposal system, including those facilities built in conflict with the State of Louisiana Sanitary Code, shall comply with all provisions of U.S Environmental Protection Agency Wastewater Discharge Permit Number LAG550200. The U.S. Environmental Protection Agency should be contacted for information regarding federal wastewater discharge permits. The State Health Officer may establish other limitations or standards, as needed, in consideration of the water quality of affected surface water bodies and groundwaters.

Change 13:015 to read as follows:

Maintenance and operation. Individual sewage systems shall be kept in service and in a serviceable condition sufficient to insure compliance with this code and in order to avoid creating or contributing to a nuisance to the public.

Change *Secondary Treatment Standard* (Definition) to read as follows:

Secondary Treatment Standard means a sewage effluent water quality standard which prescribes a maximum 30-day average concentration of biochemical oxygen demand (five-day basis) of 30 milligrams per liter (mg/l) and a maximum daily concentration of biochemical oxygen demand

(five-day basis) of 45 mg/l. The 30-day average concentration is an arithmetic mean of the values for all effluent samples collected in the sampling period.

The above amendments to the *Louisiana Sanitary Code* are required in order to insure that department codal requirements are in concert with alternately prevailing federal and state regulations, as may be related, and in order that Department of Health and Hospitals may, in timely and proper manner, administratively enforce certain provisions of Act 300 of the 1991 Louisiana Legislature. Further, it is noted that these amendments to the *Louisiana Sanitary Code* were addressed in an emergency rule which was published in the December 20, 1991 issue of the *Louisiana Register.*

Interested persons may submit written comments on the proposed Code amendments to the following address: Joseph Kimbrell, Deputy Assistant Secretary, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

A public review hearing will be held on February 24, 1992 at 10 a.m. at 325 Loyola Avenue, Room 511, New Orleans, to hear comments on the proposed rule.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Amendment to Louisiana Sanitary Code
Chapter XIII, in part

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No estimated costs or savings are expected to accrue to state or local governmental units, consequent to the promulgation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No discernible effect on revenue collections of state or local governments is expected, consequent to the promulgation of this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No additional estimated costs and/or economic benefits to directly affected persons or non-governmental groups are expected to accrue, consequent to the promulgation of this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is expected, consequent to the promulgation of this rule.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Public Health

Under the authority of R.S. 40:4 and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the state health officer of the Department of Health and Hospitals, Office of Public Health, hereby proposes to amend Chapter 12 (Water Supplies) of the Sanitary Code. The amendments proposed are in accordance with R.S. 40:5.9 (part of Act # 537 of 1991) which authorizes the state health officer to issue administrative compliance orders to public water systems and to assess civil penalties upon non-compliance with any provision of the order. Specifically, the intent of this proposed rulemaking is to delineate a procedure for calculating the monetary amount of any civil penalty assessment based upon such factors as the seriousness of the violation, culpability of the owner and/or operator, size of the public water system, and the duration of the violation. The amendments proposed will become Appendix A and Appendix B of Chapter 12. Appendix A is to be entitled the "Civil Penalty Assessment Rule." Appendix B is to be entitled the "Accompanying Guidelines to the Civil Penalty Assessment Rule."

The proposed amendments are to become effective on April 20, 1992, or as soon thereafter as practical upon publication as a rule in the *Louisiana Register.*

A public hearing will be held at 9 a.m. on February 28, 1992 in the First Floor Auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed amendments. Such comments should be submitted no later than March 9, 1992 to C. Russell Rader, P.E., Chief Engineer, Engineering Services Section, Office of Public Health, Department of Health and Hospitals, Box 60630 - Room 403, New Orleans, LA 70160. He may be contacted at the address above, or telephone (504) 568-5100.

This proposed regulation is available for inspection at the Office of the State Register, 1051 Riverside North, Baton Rouge, LA or at the Office of Public Health at the above address.

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Civil Penalty Assessment and Accompanying Guidelines

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The anticipated additional cost to the State General Fund for implementing the proposed rule is estimated to be $93,043 for FY 92-93 with four percent cost-of-living increases annually thereafter. Only local governmental units which own and/or operate a non-complying public water system may be affected since they themselves may be subject to administrative compliance orders. Failure to comply with the provisions of an administrative compliance order may subject local governmental units to a maximum penalty of $3000 per day.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is not intended as a revenue gathering mechanism. It is intended to be a mechanism to

secure rapid and full compliance with the requirements of the State Sanitary Code and other applicable laws and regulations relative to safe drinking water. Any penalties collected due to non-compliance with the provisions of an administrative order shall be deposited into the state treasury; however, it is impossible to estimate how many administrative orders will be disobeyed and for what duration, etc.; therefore, the amounts deposited, if any, into the state treasury on an annual basis are unknown.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Any person, as defined by R.S. 40:5.8, who owns and/or operates a non-complying public water system may be affected. Upon failure to comply with the provisions of an administrative compliance order before the time limit set for compliance in the order expires, a person may subject themselves to a maximum penalty of $3000 per day. Estimate of cost would be dependent upon the nature of the violation, size of the public water system, etc. and would be impossible to estimate except on a case-by-case basis.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule would generally require non-complying public water systems to upgrade and properly maintain their facilities. In the private sector, it would be anticipated that the proposed rule would foster competition between various manufacturing and service companies dealing in the water supply industry. In both the public and private sector, it would be anticipated that some systems may have to employ additional staff to upgrade the operation and maintenance of their public water system.

Joel L. Nitzkin, M.D., D.P.A.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources
Office of the Secretary

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Natural Resources hereby gives notice that it intends to amend LAC 43:1.1515 regarding the assessment of fees. The previous assessment was imposed on June 20, 1991.

Title 43
NATURAL RESOURCES
Part I. Office of the Secretary

Chapter 15. Administration of Fishermen's Gear Compensation Fund

§1515. Assessment of Fees

* * *

B. The balance in the Fishermen's Gear Compensation Fund is less than $250,000 and, pursuant to R.S. 56:700.2., (as amended, Act 337 of 1991) an additional fee of $500 will be assessed on each lessee of a state mineral lease and each grantee of a state pipeline right-of-way located in the Coastal Zone of Louisiana, effective April 20, 1992.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:700.2.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of the Secretary, LR 5:328 (October 1979), amended LR 9:15 (January 1983), LR 10:546 (July 1984), LR 11:1178 (December 1985), LR 12:602 (September 1986), LR 13:360 (June 1987), LR 15:497 (June 1989), LR 16:320 (April 1990), LR 17:605 (June 1991), LR 18:

Questions or comments relative to this fee may be directed to Gerald P. Theriot, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Capitol Station, Baton Rouge, LA, 70804, (504) 342-0122, and must be received by March 20, 1992.

Martha A. Swan
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Fishermen's Gear Compensation Fund-Fee Notice

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional implementation cost (savings) to state or local government units. Existing staff can handle the related workload.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Commercial fishermen may file claims for reimbursement (not to exceed two each fiscal year) for damages sustained while operating in coastal waters. Reimbursement is paid from the Fishermen's Gear Compensation Fund, whose revenues are generated by an assessment on each holder of a state mineral lease and each grantee of a pipeline right-of-way located within the Coastal Zone. Assessments are imposed only when the Fund's Balance is below $250,000. No revenues will be received until May, 1992, and the approximately $950,000 derived from the assessment of $500 on each of 1900 leases and rights-of-way will be used to pay claims throughout FY 92-93.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The assessment will be paid by the oil and gas exploration, production and transmission industries. Legislation which established the Fishermen's Gear Compensation Fund authorizes assessments of fees not to exceed $1000 per year per lease or right-of-way. The proposed rule announces an assessment of $500 on each of 1900 leases and rights-of-way, with the resulting $950,000 used to pay claims for reimbursement filed by eligible commercial fishermen.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment, because this rule simply announces a fee authorized by an act of legislature.

Martha A. Swan
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of Family Support

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III., Subpart 4, Support Enforcement Services.

This rule is mandated by R.S. 47:9026 in the 1991 Regular Session.

Title 67
DEPARTMENT OF SOCIAL SERVICES
Part III. Office of Family Support
Subpart 4. Support Enforcement Services
Chapter 25. Support Enforcement

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Subchapter J. State Lottery Offset Distribution
§2535. Assignment of Lottery Winnings by Support Enforcement Services

A. Effective May, 1992, the Department of Social Services, Office of Family Support, shall implement interception of lottery winnings from the Louisiana Lottery Corporation of a delinquent support payor.

B. Support Enforcement Services will send to the Louisiana Lottery Corporation a monthly list of child support payors who are delinquent in their child support payments. If a delinquent support payor wins a lottery prize of $600 or more, the Lottery Corporation will deduct the amount of child support arrears reported by Support Enforcement Services from the lottery winnings and then submit the deducted amount to Support Enforcement Services.

C. Support Enforcement Services will apply the intercepted winnings amount first to any unpaid monthly obligation and then to any outstanding arrears as of the date the intercepted winnings are posted to the delinquent support payor's child support case(s).

D. A delinquent support payor with more than one case with outstanding arrears shall have his lottery winnings prorated to each case based on the unpaid monthly obligation plus arrearage due in each case as a percentage of the total unpaid monthly obligations plus arrearage due in all cases.

E. Any intercepted amounts which exceed the amount of unpaid monthly obligation plus arrearage in all cases on the date the intercepted winnings are posted will be refunded to the support payor in a prompt manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:9026.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support in LR 18: (April 1992).

Interested persons may submit written comments within thirty days to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on February 28, 1992 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

May Nelson
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Support Enforcement
State Lottery Offset Distribution

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state government associated with this rule will be the costs of printing of the executive bulletin announcing the change and the cost of printing approximately two pages of the Child Support Manual to incorporate the change into existing policy. The projected estimated costs of the printing is $79.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have negligible effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be negligible impact to both custodial and non-custodial parents due to the extremely small chance that an absent parent who owes child support arrearage will win a prize which is offset by the Louisiana Lottery Corporation. Louisiana population statistics indicate there are approximately 3,141,468 people aged 18 years or older. Of this amount only 70,000 owe child support under an obligation being handled by Louisiana's Title IV-D Agency. This means there is about a 2 in 100th of 1 percent chance that an absent parent will win the Lottery.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of State
Office of Uniform Commercial Code

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and under the authority of R S. 49:230(C)(2) and 10:9-410(3) relative to the authority of the Department of State, Office of Uniform Commercial Code, to promulgate rules and regulations, notice is hereby given that the Department of State proposes to adopt the following rules governing the submission of Master Assignment and Master Amendment filings, and other related amendments to UCC filing procedures.

Title 10
BANKS AND SAVINGS AND LOANS
Part V. Uniform Commercial Code
Chapter 1. Secured Transactions

§103. Place of Filing - When Filing is Required in Louisiana

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E. The filing of a financing statement otherwise required by the UCC is not necessary or effective to perfect a security interest in property subject to the following statutes: R.S.3:3651, et seq. pertaining to central registry of liens affecting farm products as defined in R.S. 3:3652(10) and not as defined in R S. 10:9-109(3); however, during any period in which the collateral is inventory held for sale by a person who is in the business of selling or leasing goods of that kind, the filing provisions of the UCC apply to a security interest in that collateral created by the debtor.

1.-2. Repealed

AUTHORITY NOTE: Promulgated in accordance with R S. 10:9-103, 10:9-302, and 10:9-401.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§105. Formal Requisites of Financing Statement

A. To be effective, a financing statement must:

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2. give the name of the secured party, an address of the secured party from which information concerning the security interest may be obtained, and set forth the Social Security Number or employer identification number, as applicable, of the secured party.

***

C. The filing officer may reject any financing statement which does not set forth the Social Security Number or employer identification number, as applicable, of each named secured party and debtor unless the secured party or debtor is not required to have such number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-402 and 10:9-508.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§107. Forms to be Used in Filing

A. Under the UCC, the notice to be filed with the filing officer is called a financing statement. The standard financing statement approved by the secretary of state, Form UCC-1, measures 8 1/2″ × 11″. All filing officers will accept these standard forms. Failure to use Louisiana Form UCC-1 renders the filing subject to the nonstandard form penalty.

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F. Repealed (Reserved)

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H. A financing statement may disclose an initial assignment of the security interest by giving the name, address, and Social Security Number or employer identification number, as applicable, of the assignee. After disclosure of the assignment, the assignee is the secured party of record. The standard UCC-1 form approved by the secretary of state contains appropriate space to disclose such an initial assignment.

AUTHORITY NOTE: Promulgated in accordance with R S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 17:487 (May 1991), LR 18:

§113. Repealed (Reserved)

AUTHORITY NOTE: Promulgated in accordance with R S. 9:3112(B).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), repealed LR 18:

§117. Subsequent Filings

A. Filings relating to changes affecting the original financing statement have been consolidated and incorporated into a single form prescribed by the secretary of state called a "UCC-3." This single composite form may be used as a Continuation Statement, a Partial Release Statement, a Statement of Partial Assignment, a Statement of Assignment (full assignment), a Termination Statement, an Amendment to a financing statement, or a Statement of Master Assignment or Master Amendment (affecting 20 or more original financing statements filed in the same parish).

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AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-409.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§123. Preparation of A UCC-3 Filing

Any UCC-3 filing changing the original financing statement must:

A. be signed by the secured party of record.

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C. give the name, mailing address, and Social Security Number or employer identification number, as applicable, of the secured party of record;

***

AUTHORITY NOTE: Promulgated in accordance with R S. 10:9-402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§125. Additional Specific Requirements for Filings Changing the Status of an Original UCC Filing

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F. Master Assignment

1. A secured party of record may assign all of its rights under twenty or more financing statements filed in any one parish by filing a UCC-3 Master Assignment in the parish in which the original financing statements were filed.

2. The secured party shall specifically indicate the type of statement being filed by checking Item 7G on the standard form UCC-3 approved by the secretary of state and typing the words "Master Assignment" in the space proved therein.

3. As an exception to §123.B and D herein, debtor information (name, address and taxpayer identification numbers) and the date of filing relating to each original financing statement being assigned need not be provided. However, the following information shall be set forth on the UCC-3 Master Assignment:

a. the name, address, and Social Security Number or employer identification number, as applicable, of the secured party of record;

b. the name, address, and Social Security Number or employer identification number, as applicable, of the assignee;

c. the original file number of each financing statement being assigned. This information shall be provided on 8 1/2″ × 11″ sheets attached to the UCC-3, headed by the name and taxpayer identification number of the secured party of record;

d. the parish of original filing;

e. the secured party of record must sign the UCC-3 Master Assignment.

G. Master Amendment

1. A secured party of record may amend its name, mailing address or taxpayer identification number shown in 20 or more financing statements filed in any one parish by filing a UCC-3 Master Amendment in the parish in which the original financing statements were filed.

2. The secured party shall specifically indicate the type of statement being filed by checking Item 7G on the standard form UCC-3 approved by the secretary of state and typing the words "Master Amendment" in the space provided therein.

3. As an exception to §123.B and D herein, debtor information (name, address and taxpayer identification numbers) and the date of filing relating to each original financing statement being amended need not be provided. However, the following information shall be set forth on the UCC-3 Master Amendment:

a. the name, address, and Social Security Number or employer identification number, as applicable, of the secured party of record;

b. the new name, address, and Social Security Number or employer identification number, as applicable, of the secured party, which should be set forth in Item 8 on the UCC-3 form;

c. the original file number of each financing statement in which the secured party's name, address or taxpayer identification number is being amended. This information shall be provided on 8 1/2″ × 11″ sheets attached to the UCC-3, headed by the name and taxpayer identification number of the secured party of record;

d. the parish of original filing;

e. the secured party of record must sign the UCC-3 Master Amendment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9.402, et seq.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§127. Reinscription of Pre-Chapter 9 Filings

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D. The filing officers shall collect fees applicable for the filing of a UCC continuation statement. Additionally, the uniform fee for filing a termination statement shall be prepaid at the time the reinscription is filed. Fees collected shall be allocated between the filing officer and the secretary of state as set forth in R.S. 9:2737(A)(1)(a).

AUTHORITY NOTE: Promulgated in accordance with R S. 9:3112(B) and 9:5356(J).

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§129. Request for Information or Copies

A. 1. Background: The secretary of state's master index of information is composed of UCC filing data submitted by the 64 filing officers statewide. The data base is a composite of all presently effective financing statements, as well as any statements of assignment, continuation, release, or amendment, and original financing statements which have been terminated within the one-year period prior to a request for a certificate. All UCC filings are indexed according to the name and Social Security Number or employer identification number, as applicable, of each particular debtor set forth on the financing statement.

2. The secretary of state's master index does not contain information on statutory liens or tax liens, except for statements filed pursuant to R S. 23:1546 relative to unemployment compensation contributions, and IRS tax liens affecting movable property filed on or after September 1, 1990. In addition, the master index does not contain any information on notices of assignments of accounts receivable, or chattel mortgage or collateral chattel mortgage filing information, except for those pre-Chapter 9 filings which have been reinscribed under the UCC filing provisions in accordance with R.S 9:3112(B) and R.S. 9:5356(J).

3. Original UCC documents filed with the parish filing officers remain at the local level in the parish of filing. Any filings which change the status of an original UCC filing must be made with the filing officer with whom the financing statement was originally filed, and the original will remain on file in that parish. The secretary of state does not receive copies of UCC filings. Therefore, requests for copies of documents must be made in the parish in which the filing was originally made. If filings on a particular debtor have been made in more than one more parish, each parish filing officer must be contacted for copies of such filings. If the file numbers cannot be provided by the requesting party, a certificate must be requested from the filing officer.

B. Prescribed Forms to be Used In Requesting Information Or Copies

A standard UCC-11 has been prescribed by the secretary of state to be used in requesting (1) copies of filings, and/or (2) the filing officer's certificate showing whether there is listed any presently effective financing statements or other statements naming a particular debtor or secured party identified by Social Security Number or employer identification number. It is recommended that the standard form UCC-11 be utilized to facilitate accurate responses, but there is no penalty for failure to use the form.

***

D. Information Request (Certificate) on Secured Parties

UCC-11 requests for information on secured party names may be submitted to any of the 64 filing officers statewide. The request shall specifically indicate that it pertains to a secured party and contain the Social Security Number or employer identification number, as applicable, of the secured party who is the subject of the request. The UCC certificate issued by the filing officer will disclose all financing statements or other statements filed in the UCC master index on or after January 1, 1990, in which the secured party's taxpayer identification number was provided on the original statement or subsequent filing relating thereto.

AUTHORITY NOTE: Promulgated in accordance with R S. 10:9-403, 407, 409 and R.S. 23:1546.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 18:

§131. Schedule of Fees for Filing and Information Requests

A. Form UCC-1

*Financing Statement . . . . . .$ 15
*Financing Statement with Assignment . . . . . .$ 20
*Financing Statement relating to fixture or mineral filings . . . . . .$ 25
*Financing Statement (Transmitting Utility). $200

*Extra fee of $5 for each additional debtor name or tradename

*Non-standard form penalty (UCC-1 and UCC-3)$ 15 (plus $1 per page in excess of 10 pages)

B. Form UCC-3

*Amendment . . . . . .$ 15
*Assignment (Full or Partial) . . . . . .$ 15
*Continuation . . . . . .$ 15
*Reinscription of Pre-Chapter 9 Filing . . . . . .$ 15
*Release. . . . . .$ 15
**Termination . . . . . .$ 5
*Master Assignment/Master Amendment. .$ 5 per affected financing statement plus $1 per affected financing statement in excess of 300

*Extra fee of $5 for each additional debtor name or tradename
*Non-standard form penalty (UCC-1 and UCC-3)$ 15 (Plus $1 per page in excess of 10 pages)
**Termination fee of $5 per debtor name is prepaid at time of original filing of financing statement.

C. Form UCC-11

***UCC Certificate (per name) . . . . . .$ 15
Copies of Documents. . . . . .$1 per page (Minimum of $3 per request)
***If a certificate contains listings of more than 10 statements, add $1 for each statement in excess of 10.

**Termination . . . . . .$ 5
*Master Assignment/Master Amendment. .$ 5 per affected financing statement plus $1 per affected financing statement in excess of 300

*Extra fee of $5 for each additional debtor name or tradename
*Non-standard form penalty (UCC-1 and UCC-3)$ 15 (Plus $1 per page in excess of 10 pages)
**Termination fee of $5 per debtor name is prepaid at time of original filing of financing statement.

C. Form UCC-11

***UCC Certificate (per name) . . . . . .$ 15
Copies of Documents. . . . . .$1 per page (Minimum of $3 per request)
***If a certificate contains listings of more than 10 statements, add $1 for each statement in excess of 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 10:9-403, 407, 409 and R.S. 9:2737.

HISTORICAL NOTE: Promulgated by the Department of State, Office of Uniform Commercial Code, LR 17:72 (January 1991), amended LR 17:487 (May 1991), LR 18:

Interested persons may comment on these proposed rules by contacting Jan Whitehead Swift, Box 94125, Baton Rouge, LA 70804-9125. Telephone (800) 256-3758.

W. Fox McKeithen
Secretary

Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Uniform Commercial Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no implemtation costs or savings to the state of Louisiana or local governmental units in either the adoption or implementation of the 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.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL 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 adoption and implementation of these proposed rules will not affect competition and employment.

Jan Whitehead Swift
Deputy Secretary

John R. Rombach
Legislative Fiscal Officer

Administrative Code Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE
January, 1991 through December, 1991

Vol. Title:Part.Section	Effect	Location LR 17 Month	Page
1 LAC 10			
II.10	Adopted	Jan	34
II.101	Repromulgated	May	476
V.Chapter 1	Adopted	Jan	72
V. Chapters 1 and 2	Amended	May	487
V.Chapter 3	Adopted	May	482
VII.Chapter 1	Adopted	Jun	578
VII.301	Adopted	Jun	588
LAC 35			
I.1703	Amended	Jul	648
I.1739	Amended	Feb	169
I.1742	Adopted	Mar	261
I.1761	Amended	Jul	648
I.1775	Amended	Sep	878
I.1791	Amended	Feb	172
I.1791	Amended	Jul	648
I.1793	Amended	Feb	172
I.1793	Amended	Dec	1203

Vol. Title:Part.Section	Effect	Location LR 17 Month	Page
III.5702	Adopted	Mar	258
III.5716	Adopted	Mar	262
III.5717	Amended	Mar	258
III.5731	Amended	Mar	262
III.5741	Amended	Sep	878
III.5742	Adopted	Mar	257
III.5742	Repealed	Dec	1203
V.6311	Amended	Mar	258
V.6319	Amended	Mar	262
V.6360	Amended	Feb	170
V.7704	Adopted	Mar	261
V.8307	Adopted	Feb	172
IX.9502	Adopted	Mar	260
XI.9909	Amended	Sep	878
XIII.103	Amended	Feb	169
XIII.10903-10917	Repealed	Sep	877
XV.12328	Adopted	Feb	170
XV.12329	Amended	Feb	171
XV.12330	Adopted	Feb	170
XV.12331	Amended	Feb	171
XV.12332	Adopted	Feb	173
XV.12341	Amended	Feb	170
XV.12341	Amended	Mar	261
XV.12365	Adopted	Mar	260
XV.Chapter 127	Adopted	Mar	259
2 LAC 7			
III.Chapter 5	Adopted	Feb	164
III.541, 542	Adopted	Mar	249
V.Chapter 35	Adopted	Mar	249
V.Chapter 35	Amended	Oct	955
XXI.Chapter 123	Adopted	Apr	350
XXI.11701	Amended	Jan	29
XXI.11709	Amended	Jan	30
XXI.11711	Amended	Jan	30
XXI.11711	Amended	Sep	873
XXI.11731	Amended	Apr	354
XXI.11733	Amended	Jan	29
XXI.11735	Amended	Jan	30
XXI.11737	Amended	Jan	31
XXI.11739	Amended	Jan	31
XXI.11771	Amended	Sep	874
XXV.Chapter 141	Amended	Mar	251
XXVII.14759	Adopted	Oct	955
XXXIX.20101	Amended	May	476
XXXIX.20501	Amended	May	476
3 LAC 46			
I.1115	Adopted	Jun	575
I.Chapter 13	Amended	Jun	575
VII.Chapters 1-17	Repromulgated	Apr	356
XIX.Chapters 3-27	Amended	Nov	1067
XIX.Chapter 13	Amended	Nov	1072
XXI.Chapters 1,5,6,9	Amended	Jan	31
XXI.Chapters 3,6,9	Amended	Jun	578
XXV.117	Amended	Sep	883
XXV.119	Amended	Apr	370
XXV.Chapters 1-23	Amended	Aug	778
XXVII.Chapters 3-7	Amended	Oct	968
XXXVII.111	Amended	Nov	1101
XXXVII.513	Amended	Mar	270

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XLI.705	Amended	Jun	588
XLI.707	Amended	Mar	257
XLI.1904	Adopted	Mar	260
XLIII.Chapters 1-13	Amended	Nov	1073
XLV.125	Amended	Jun	603
XLV.401	Adopted	Nov	1101
XLV.Chapters 15,45	Amended	Nov	1102
XLV.Chapters 23, 53	Amended	Aug	779
XLV.Chapter 25	Amended	May	479
XLV.4921	Amended	Sep	884
XLV.5517, 5519	Amended	Sep	886
XLV.9903	Amended	May	480
XLVII.3356	Repromulgated	Jan	58
XLVII.3503	Amended	Dec	1207
XLVII.3541	Amended	Dec	1207
XLIX.105	Amended	Feb	199
XLIX.Chapters 1-17	Amended	Oct	969
LIII.909-923	Amended	Aug	779
LIII.2713	Amended	Aug	780
LIV.Chapters 1,3,5	Amended	Jul	662
LV.Chapters 1-9	Amended	Jan	49
LX.1301	Amended	Aug	778
LXI.105, 1503	Amended	Aug	803
LXI.902	Adopted	Mar	273
LXI.1701	Amended	Mar	273
LXI.2103	Amended	Mar	273
LXVII.1517	Amended	Jul	650
LXVII.2401	Amended	Jul	649
LXVII.2403	Adopted	Jul	649
LXVII.Chapter 27	Amended	Nov	1080
LXVII.6301	Amended	Jul	650
LXVII.6603, 6621	Amended	Jul	650
LXVII.10311	Amended	Jul	649
LXVII.10313	Amended	Jul	649
LXXV.Chapter 5	Adopted	Apr	372
LXXV.Chapter 7	Adopted	Apr	370
4 LAC 4			
I.301, 309	Amended	Dec	1206
VII.111	Amended	Dec	1206
VII.128	Adopted	Dec	1206
VII.341	Amended	Jul	661
VII.913	Adopted	Dec	1205
VII.Chapter 11	Amended	Jan	57
VII.1127	Amended	Jun	600
VII.1129	Amended	Jun	600
VII.1131	Amended	Jun	599
VII.1167	Amended	Jun	602
VII.1229	Amended	Jun	600
VII.1229	Repromulgated	Jul	661
VII.1301-1321	Amended	Dec	1207
VII.1737	Amended	May	479
IX.Chapters 1-23	Repromulgated	Mar	267
LAC 34			
I.3301	Amended	Jul	660
V.Chapter 1	Amended	Mar	264
VII.901	Amended	Mar	266
5 LAC 76			
III.320	Adopted	Feb	208
V.109	Adopted	Jan	78

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	V.111	Adopted	Feb	204
	V.113	Adopted	Feb	205
	V.701	Amended	Sep	892
	VII.110	Amended	Mar	278
	VII.110	Amended	Nov	1123
	VII.123	Repealed	Mar	277
	VII.149	Amended	Nov	1122
	VII.147	Adopted	Jan	78
	VII.149	Amended	Mar	277
	VII.149	Repromulgated	May	488
	VII.151	Adopted	Apr	389
	VII.153	Adopted	Oct	975
	VII.155, 157	Adopted	Sep	894
	VII.159	Adopted	Sep	893
	VII.323, 327	Amended	Feb	207
	VII.339	Adopted	Apr	389
	VII.500	Adopted	Aug	808
	VII.501	Amended	Aug	808
	VII.901	Adopted	Aug	806
	VII.903	Adopted	Aug	804
	IX.Chapter 1	Amended	Jul	679
6	LAC 22			
	I.103	Amended	Feb	202
	I.309	Adopted	Feb	203
	I.310	Repromulgated	Jun	605
	I.320	Adopted	Jul	671
	I.325	Amended	Jan	68
	I.333	Adopted	Jul	670
	I.341-403	Amended	Jun	605
	I.Chapter 5	Amended	Aug	795
	I.Chapter 22	Adopted	Aug	800
	III.2901	Amended	Jul	661
	LAC 55			
	I.Chapter 5	Amended	Jul	672
	I.Chapter 17	Amended	Apr	383
	I.1901	Adopted	May	482
	III.201	Amended	Oct	971
	V.103,105	Amended	Nov	1114
	V.309	Adopted	Mar	272
	V.3001-3059	Adopted	Mar	273
	V.Chapter 30	Amended	Oct	971
	VII.317	Amended	Jun	607
	VII.319	Amended	Jun	609
7	LAC 25			
	III.Chapter 3	Amended	Sep	874
	III.Chapter 3	Amended	Dec	1202
	LAC 40			
	I.Chapter 1	Repromulgated	Apr	357
	I.Chapter 9	Amended	Feb	176
	I.Chapter 15	Adopted	Aug	773
	I.Chapter 17	Repealed/ Repromulgated	Oct	959
	I.Chapter 19	Adopted	Apr	359
	I.Chapter 27	Repromulgated	Jul	653
	III.Chapter 1	Amended	Feb	179
	IV.Chapter 1	Repromulgated	Jan	35
	IV.Chapter 3	Repromulgated	Jan	38
	VII.Chapters 1,2,3,5	Repromulgated	Apr	357
	IX.Chapters 1,3,5	Repromulgated	Apr	356
	XIII.Chapter 1	Repromulgated	Apr	357
	XV.Chapter 1	Repromulgated	Apr	357
	XVII.Chapters 1-49	Repromulgated	Apr	357
8	LAC 48			
	I.Chapter 21	Repealed/ Repromulgated	Dec	1208
9	LAC 48			
	1.Chapter 125	Amended	Jan	61
	V.3703	Amended	Sep	886
	V.6001	Adopted	Feb	199
	V.6303	Amended	Apr	378
	V.11707	Amended	Apr	375
	VII.119	Adopted	Jul	668
	VII.121	Adopted	Jul	668
	VII.Chapter 7	Amended	Jun	603
10	LAC 61			
	V.Chapters 1-27	Amended	Dec	1210
	V.303	Amended	Jun	610
	V.3503	Amended	Jun	610
11	LAC 33			
	III.111	Amended	Aug	776
	III.Chapter 5	Amended	May	478
	III.Chapter 21	Amended	Apr	360
	III.Chapter 21	Amended	Jul	654
	III.2127	Repromulgated	May	477
	III.Chapter 25	Repealed	Dec	1204
	III.3125	Amended	Jul	657
	III.3131	Adopted	Feb	181
	III.3153	Amended	May	478
	III.3301	Adopted	Mar	263
	III.4801	Adopted	Jul	654
	III.4841	Adopted	Jul	655
	III.Chapter 51	Adopted	Dec	1204
12	LAC 33			
	III.6079	Adopted	Mar	263
	III.6086	Adopted	Jul	655
	III.Chapter 61	Adopted	Jul	653
	III.6103	Amended	May	477
	III.6113	Adopted	Jul	653
	III.6511,6523	Amended	Dec	1205
13	LAC 33			
	V.105	Amended	Sep	883
	V.Chapters 1,7,9,11,41,43	Amended	Apr	362
	V.Chapters 1,25,44, 49	Amended	Apr	368
	V.Chapters 1-49	Amended	May	478
	V.Chapters 3-51	Amended	Jul	658
	V.10111	Amended	Jun	609
	V.Chapter 103	Amended	Nov	1115
	V.Chapter 501	Adopted	Apr	379
14	LAC 33			
	IX.703,713	Amended	Oct	965
	IX.708	Amended	Mar	263
	IX.713,1113	Repromulgated	Nov	1082
	IX.Chapter 11	Amended	Mar	264
	IX.Chapter 11	Amended	Oct	966
	XI.Chapters 1-13	Amended	Jul	658
16	LAC 70			
	III.Chapter 7	Adopted	Feb	204
	III.Chapter 5	Amended	Oct	973

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III.501	Adopted	Jul	677
XV.101	Adopted	Mar	274
17 LAC 43			
I.511	Amended	Aug	777
I.1517	Adopted	Mar	272
I.1515	Amended	Jun	605
XIX.129	Amended	Apr	382
XXVII.Chapters 1-19	Adopted	Oct	968
18 LAC 28			
I.111	Amended	Sep	880
I.903	Amended	Jan	35
I.903	Amended	Dec	1204
I.917	Amended	Oct	958
I.933	Adopted	Aug	772
I.935	Adopted	Aug	773
I.939	Adopted	Aug	772
I.1523	Amended	Jan	35
I.1523	Amended	Oct	957
I.1523, 1527	Amended	Jun	589

Potpourri

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Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Crop Pests and Diseases

QUARANTINE

In accordance with LAC 7:XV.9509, we are hereby publishing a Supplement to the 1991 Quarantine Listing for Pink Bollworm (*Pectinophora gossypiella* Saunders). This quarantine supersedes that published December 20, 1991.

In the state of Louisiana:

Suppressive Area

Concordia Parish. That portion of the parish bounded by a line beginning at the intersection of the Concordia - Tensas parish line and the Louisiana Mississippi state line; then west along the Concordia - Tensas parish line to a point 0.3 miles due east of the southern boundary line of Section 50, Range 10 East, Township 9 North; then west across the Mississippi River levee and along the southern boundary line of Sections 50 and 51, Range 10 East, Township 9 North to its junction with the eastern border of the Lake St. John oil and gas field; then north along this border to the Concordia - Tensas parish line; then west along the parish line to its junction with the northern edge of Lake St. John; then south along the western edge of Lake St. John to its junction with the southeast corner of the property line of the North Half of Lower Coosa Plantation in Section 34, range 10 East, Township 9 North; then southwest along this property line to a point on the northern boundary line of Section 2, Range 9 East, Township 8 North marked by a stake with pointers marked "X" (indicating the northwest property boundary of Pittsfield Plantation); then southeast in a straight line to the northeastern corner of Section 56, Range 9 East, Township 8 North; then continuing along the eastern boundary line of this section across state highway 568 to the Lake Concordia levee; then southwest along the levee to the point where state road 900 intersects state highway 568 adjacent to the levee; then southeast in a straight line across Lake Concordia to the western edge of a natural tree row; then continuing southeast along the three row to the point where the tree row makes a 90° turn toward the northeast; then extending southeast beyond this point to state road 3196; then northeast along state road 3196 to the point where the road intersects the Mississippi River levee; then southeast along a line at a 20° angle from this intersection to the Louisiana - Mississippi state line (this is inclusive of Mud Lake and the northern half of the Fairchilds Bend oil field); then north along the Louisiana - Mississippi state line to the point of beginning.

Bob Odom
Commissioner

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Department of Agriculture and Forestry
Office of Agriculture and Environmental Sciences
Diseases of Animals

Quarantine

Under authority of R.S. 3:2304 and LAC 7:XXI.11915, the state entomologist of the Department of Agriculture and Forestry hereby publishes a notice of quarantine due to the discovery of the Varroa mite (*Varroa jacobsoni*), a serious pest of the honey bee, not previously known to occur in Louisiana. This action is taken to protect the beekeeping industry of this state and is imposed on the movement of restricted articles which include colonies of bees, nuclei, comb or combless packages of bees, queens, used or second hand beekeeping fixtures or equipment and anything that has been used in operating an apiary, from portions of Iberville, Pointe Coupee and West Baton Rouge parishes as described below.

In the state of Louisiana:

Quarantine Area

Portions of Iberville, Pointe Coupee, and West Baton Rouge as follows: That portion of Pointe Coupee parish beginning at the northeast boundary, also identified as the junction of the parish line located in or about the middle of the Mississippi River, where East and West Baton Rouge, and East and West Feliciana parishes boundary lines meet; then north and west along the Pointe Coupee - West Feliciana parish line, in or about the middle of the Mississippi River to a point on St. Maurice Towhead; then 0.6 miles south southwest to the junction of state highway 420 and Delta Place Subdivision Road; then south southwest along Delta Place Subdivision Road to its junction with state highway 1; then west northwest along state highway 1 to its junction with state highway 3131, also known as Hospital Road; then

south and southeast along state highway 3131 to its junction with state highway 1 again; then in a southward direction along state highway 1 to its junction with state highway 78; then due west to the northwest boundary of Section 19, Township 5 South, Range 8 East; then due south crossing the Pointe Coupee - Iberville parish line to the southwest boundary of Section 27, Township 9 South, Range 8 East; then due east to the southeast boundary of Section 59, Township 9 South, Range 11 East; then due north crossing the Iberville - West Baton Rouge parish line to the northeast boundary of Section 16, Township 7 South, Range 11 East; then east on state highway 76 to its junction with state highway 1145; then north northeast on state highway 1145 to its junction with U.S. highway 190; then due north 1.1 miles to the West Baton Rouge - East Baton Rouge parish line, in or about the middle of the Mississippi River; then in a northward direction along the West Baton Rouge - East Baton Rouge parish line, in or about the middle of the Mississippi River to the point of beginning.

Bob Odom
Commissioner

POTPOURRI

Department of Health and Hospitals
Office of Management and Finance
Division of Policy and Program Development

HIV Program Office

Notice is hereby given that the Department of Health and Hospitals will conduct a public hearing in order to solicit public input on the Title II Comprehensive Plan and the organization and delivery of HIV health care and support services.

Copies of the plan are available for review by contacting the HIV Program Office at (504) 568-7042. The hearing will be conducted on Monday, February 17, 1992 at 12:30 p.m. at Tall Timbers, 10218 Highway 165 South, Forest Hill, LA. Interested persons are invited to attend and submit oral and written comments on the Title II Comprehensive Plan and the organization and delivery of HIV health care and support services.

In addition to this public hearing, all interested persons are invited to submit written comments on the Ryan White Title II funds. These comments must be received at the HIV Program Office by February 14, 1992 and all written comments directed to: Dr. Ted Wisniewski, Director, HIV Program Office, Department of Health and Hospitals, 1542 Tulane Avenue, New Orleans, LA 70112. Commentors should reference the comments, Ryan White II funds.

J. Christopher Pilley
Secretary

POTPOURRI

Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 45 claims in the amount of $101,394.08 were received in the month of December 1991, 61 claims in the amount of $132,381.56 were paid and five claims were denied.

Loran C. coordinates of reported underwater obstructions are:

28721	47046	Lake Pontchartrain
26900	46962	Cameron
28603	47030	Lake Pontchartrain
27424	46855	Vermilion
27868	46860	Terrebonne
28961	47036	St. Bernard
27743	46879	Terrebonne
28965	46920	St. Bernard
26644	46978	Cameron
27863	46857	Terrebonne
29134	46999	St. Bernard
28755	47047	Lake Pontchartrain
27680	46903	St. Mary
27334	46949	Vermilion

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

Martha A. Swan
Secretary

POTPOURRI

Department of Revenue and Taxation
Tax Commission

Pursuant to R.S. 47:1837, the following is the result of the Tax Commission's measurement of the level of appraisal and/or assessment and the degree of uniformity of the assessment for Residential Improvements and Commercial Improvements for Orleans Parish for the year 1992.

This data shall constitute prima facie evidence of the uniformity or lack of uniformity with constitutional and/or statutory requirements for this parish.

These findings were disclosed at a public hearing on January 8, 1992. Contact Donald Strain, Sr., Appraisal Director, Louisiana Tax Commission, Box 66788, Baton Rouge, LA 70896, (504) 925-7830 for further information.

Assessment/Residential Improvement Ratio Study
Summary - Orleans Parish

District	# Appraisals	Mean	Median	C.O.D.
1st	30	9.2	9.1	19.7
2nd	80	9.1	9.1	19.6
3rd	170	9.7	9.5	12.4
4th	34	9.5	9.1	18.5
5th	68	10.2	10.0	10.8
6th	88	9.8	9.9	18.7
7th	42	9.4	9.7	17.4
Combined	512	9.6	9.6	15.7

Assessment/Commercial Improvement Ratio Study
Summary - Orleans Parish

District	# Appraisals	Mean	Median	C.O.D.
1st	67	13.6	14.4	12.3
2nd	51	14.7	15.0	12.7
3rd	98	14.6	14.7	14.9
4th	37	14.0	15.0	12.8
5th	67	15.6	15.1	15.8
6th	65	15.5	15.0	12.7
7th	63	13.9	14.5	18.4
Combined	448	14.7	14.8	14.8

Mary K. Zervigon
Chairman

POTPOURRI

Department of Social Services
Office of Community Services
Weatherization Assistance Program

The Department of Social Services, Office of Community Services will submit a state plan to the U.S. Department of Energy on or about February 15, 1992 for the Weatherization Assistance Program pursuant to 10 CFR 440. As a requirement of this plan, a public hearing must be held.

The purpose of the public hearing is to receive comments on the proposed state plan for the Weatherization Assistance Program for low-income persons, particularly the elderly and handicapped, in the state of Louisiana. The public hearing is scheduled for Thursday, January 30, 1992 at 10 a.m. in Baton Rouge, LA at the Capitol Annex, 1051 Riverside North in the third floor committee room.

Copies of the plan can be obtained prior to the hearing by contacting the Department of Social Services, Office of Community Services, Box 44367, Baton Rouge, LA 70804-4357, (504) 342-2272. Interested persons will be afforded an opportunity to submit written comments by January 30, 1992 to the Office of Community Services at the above address.

May Nelson
Secretary

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