

I. EXECUTIVE ORDERS

MJF 97-10—Child Care and Development Block Grand Advisory Council 257

MJF 97-11—School Based Health Clinics Investigation 257

MJF 97-12—International Trade Commission 257

MJF 97-13—School Based Health Clinic Task Force 258

II. EMERGENCY RULES

Agriculture and Forestry

Office of Agricultural and Environmental Sciences, Structural Pest Control Commission—Wood Destroying
Insects (LAC 7:XXV.Chapter 141) 260

Office of the Commissioner—Emergency Airstrip for Agricultural Purposes (LAC 7:I.107) 262

Economic Development

Racing Commission—Qualifications for Jockey/Apprentice Jockey and Applicant for License
(LAC 46:XLI.701 and 703) 263

Environmental Quality

Office of Water Resources—Produced Water Discharge Extension [Adoption of Emergency Rule] (WP023E-B) . . 264

Produced Water Discharge Extension [Declaration of Emergency] (LAC 33:IX.708)(WP023E-B) 264

Governor's Office

Crime Victims Reparations Board—Definitions (LAC 22:XIII.103) 268

Health and Hospitals

Board of Veterinary Medicine—Animal Euthanasia Technicians—Suspension of Rule (LAC 46:LXXXV.120) . . . 268

Professional Conduct—Specialty List (LAC 46:LXXXV.1063) 269

Office of Public Health—Orleans Parish Individual Sewage 269

Office of the Secretary, Bureau of Health Services Financing—Case Management Services

Reimbursement—Infants and Toddlers with Special Needs 269

Disproportionate Share Hospital Payment Methodology 270

Home Care for the Elderly Waiver 272

Hospital Program—Outpatient Laboratory Services 274

Targeted Case Management Services and Reimbursement 274

Public Safety and Corrections

Gaming Control Board—Record Preparation Fees and Quarterly Submissions (LAC 42) 288

Riverboat Gaming: Transfers of Interest in Licensees and Permittees; Loans and Restrictions
(LAC 42:XIII.Chapter 25); and Repeal of Riverboat Gaming Patron Disputes (LAC 42:XIII.3501-3513) . 289

Social Services

Office of Family Support—Child Support Collection and Distribution (LAC 67:III.2514) 291

Office of Rehabilitation Services—Vocational Rehabilitation Policy Manual (LAC 67:VII.101) 292

III. RULES

Agriculture and Forestry

Office of Marketing, Market Commission—Egg Grading and Marketing (LAC 7:V.Chapter 15) 293

Economic Development

Office of Commerce and Industry, Business Incentives Division—Enterprise Zone—Advance Notification;
Timely Filing (LAC 13:I.Chapter 9) 295

Office of Financial Institutions—Fees and Assessments (LAC 10:I.201) 296

Environmental Quality

Office of the Secretary—Rulemaking Petitions (LAC 33:I.Chapter 9; V.105 and 2515; XV.112)(OS013) 297

Office of Solid and Hazardous Waste, Hazardous Waste Division—Land Disposal Restriction Variances
(LAC 33:V.2271)(HW051) 299

This public document was published at a total cost of \$2,180.00. Nine hundred, seventy-five copies of this public document were published in this monthly printing at a cost of \$4,180.00. The total cost of all printings of this document including reprints is \$2,180.00. This document was published by Bourque Printing, Inc., 13112 South Choctaw Drive, Baton Rouge, LA 70815, as service to the state agencies in keeping them cognizant of the new rules and regulations under the authority of R.S. 49:950-971 and R.S. 981-987. This material was printed in accordance with standards for printing by state agencies established pursuant to R.S. 43:31. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

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

Governor's Office	
Division of Administration, Property Assistance Agency—Fleet Management (LAC 34:XI.103)	300
Health and Hospitals	
Office of Public Health—Genetic Diseases—Neonatal Screening (LAC 48:V.6303)	301
Sanitary Code—Reportable Diseases (Chapter II)	302
Sanitary Code—Seafood Sanitation (Chapter IX)	303
Public Safety and Corrections	
Gaming Control Board—Record Preparation Fees and Quarterly Submissions (LAC 42)	304
Social Services	
Office of Family Support—Child Support Collection and Distribution (LAC 67:III.2514)	304
Treasury	
Board of Trustees of the State Employees Group Benefits Program—Plan Document—Catastrophic Illness Endorsement	305
Plan Document—Continuation of Coverage	306
Plan Document—Emergency Room Facility Charges at Non-PPO Hospitals	306
IV. NOTICES OF INTENT	
Agriculture and Forestry	
Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides—Registration of Pesticides (LAC 7:XXIII.13113)	307
Structural Pest Control Commission—Adjudicatory Hearing Violations (LAC 7:XXV.14121)	308
Wood Destroying Insects (LAC 7:XXV.Chapter 141)	308
Civil Service	
Board of Ethics—Lobbyists Required Reporting	309
Economic Development	
Office of Financial Institutions—Depository Institution Records Retention (LAC 10:I.701 and LAC 10:III.111)	311
Fees and Assessments (LAC 10:I.201-205)	311
Education	
Student Financial Assistance Commission, Office of Student Financial Assistance—Scholarship and Grant Policy and Procedure Manual	313
Tuition Trust Authority, Office of Student Financial Assistance—Student Tuition Assistance and Revenue Trust (START Saving) Program (LAC 28.VI)	314
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Control of Emission of Organic Compounds (LAC 33:III.Chapter 21) (AQ149)	322
Office of Solid and Hazardous Waste, Hazardous Waste Division—RCRA V Federal Package (LAC 33:V.Chapters 1, 15, 22, and 41) (HW055*)	329
Universal Wastes (LAC 33:V.Chapters 1, 3, 15, 22, 35, 38, 39, and 41) (HW054*)	332
Office of Water Resources, Water Pollution Control Division—Extension of Produced Water Discharges (LAC 33:IX.708) (WP023)	345
Governor's Office	
Office of Elderly Affairs—Long Term Care Ombudsman (LAC 4:VII.1229)	347
Health and Hospitals	
Office of Public Health—Orleans Parish Individual Sewage	348
Sanitary Code—Shellfish Tag Retention (Chapter XXIII)	349
Office of the Secretary—Community and Family Support System Cash Subsidy (LAC 48:I.16103-16129)	350
Bureau of Health Services Financing—Voter Registration Assistance	355
Insurance	
Office of the Commissioner—Regulation 46—Long-Term Care Insurance	356
Public Safety and Corrections	
Gaming Control Board—Riverboat Gaming: Transfers of Interest in Licensees and Permittees; Loans and Restrictions (LAC 42:XIII.Chapter 25) and Repeal of Riverboat Gaming Patron Disputes (LAC 42:XIII.3501-3513)	371
Social Services	
Office of the Secretary—Community and Family Support System Cash Subsidy (LAC 48:I.16103-16129)	350
Treasury	
Board of Trustees of the State Employees Group Benefits Program—Plan Document—Prescription Drug Exclusions and Limitations	371
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Reef Fish Daily Take and Size Limits (LAC 76:VII.335)	372
Resident Game Hunting Season—1997-1998 (LAC 76:XIX.101 and 103)	373
Spanish Lake State Game and Fishing Preserve (LAC 76:III.329)	374

V. POTPOURRI

Agriculture and Forestry

Office of Agricultural and Environmental Sciences, Horticulture Commission—Retail Floristry Examination 376

Environmental Quality

Office of Solid and Hazardous Waste, Hazardous Waste Division—Provisional Hazardous Waste
Generator Reporting 376

Natural Resources

Office of Conservation, Injection and Mining Division—Public Hearing—Oilfield Waste Facility 376
Public Hearing—Oilfield Waste Facility 376

Social Services

Office of Community Services—Emergency Shelter Grants Program (ESGP) 377

Executive Orders

EXECUTIVE ORDER MJF 97-10

Child Care and Development Block Grant Advisory Council

WHEREAS: Executive Order MJF 96-59, signed on October 17, 1996, established the Advisory Council on the Child Care and Development Block Grant Program (hereafter "Advisory Council"); and

WHEREAS: it is necessary to expand the voting membership of that Advisory Council to include four at-large members;

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

SECTION 1: Section 1 of Executive Order MJF 96-59, is amended to add Subsection L to the voting membership, which shall provide as follows:

L. Four at-large members.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-59 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 14th day of February, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9703#004

EXECUTIVE ORDER MJF 97-11

School Based Health Clinics Investigation

WHEREAS: Executive Order MJF 96-73, signed on December 16, 1996, ordered and directed that the secretary of the Department of Health and Hospitals (hereafter "secretary") head an investigation regarding allegations of violations of R.S. 40:31.3(c) by a few of the personnel employed by school based health clinics, and to issue a report on the findings of the investigation by February 15, 1997; and

WHEREAS: it is necessary to extend the period for investigation and amend the date on which the secretary shall issue his report on the findings of the investigation;

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

SECTION 1: Section 4 of Executive Order MJF 96-73, is amended to provide as follows:

The secretary shall issue a report on the findings of the investigation to the governor, the House and Senate Committees on Health and Welfare, and the School Based Health Clinic Task Force, no later than March 31, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-73 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 14th day of February, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9703#012

EXECUTIVE ORDER MJF 97-12

International Trade Commission

WHEREAS: the State of Louisiana is the premier agricultural product embarkation state in the United States;

WHEREAS: the abundance of the agriculture products, natural resources, and manufactured products in the State of Louisiana makes those products and resources desirable for direct sale and value added processing in international markets; and

WHEREAS: the location of the State of Louisiana, at the mouth of the Mississippi River, is geographically advantageous for the dissemination of goods and services from the United States and Canada to the vast global markets of the world;

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

SECTION 1: The Louisiana International Trade Commission (hereafter "commission") is created and established within the Executive Branch, Department of Economic Development.

SECTION 2: The duties and functions of the commission shall include, but are not limited to, advising the secretary of the Department of Economic Development on policies, programs, and activities that have the following objectives:

A. stimulating growth in international trade and investment;

B. coordinating international trade and investment programs and activities;

C. insuring Louisiana products are competitive in international markets;

D. attracting foreign trade and investments;

E. creating international transportation routes between Louisiana and other states and counties; and

F. promoting mutually beneficial cultural, educational, medical, and/or environmental exchanges between Louisiana and other counties.

SECTION 3: The advice and recommendations of the commission shall be consistent with the goals and objectives of the Louisiana Economic Development Council.

SECTION 4: The commission shall be comprised of 19 members who shall be appointed by and serve at the pleasure of the governor. The membership of the commission shall be selected as follows:

A. the secretary of the Department of Economic Development, or the secretary's designee;

B. the commissioner of the Department of Agriculture and Forestry, or the commissioner's designee;

C. a member of the Louisiana Economic Development Council;

D. two at-large members; and

E. fourteen Louisiana residents who have at least seven years of experience in international trade, finance, relations, business improvement, or economics, selected from nomination lists submitted by each of the following organizations:

1. the Alexandria Chamber of Commerce;
2. the Baton Rouge Chamber of Commerce;
3. the Lake Charles Chamber of Commerce;
4. the METROVISION, the Greater New Orleans Region

Chamber of Commerce;

5. the Monroe Chamber of Commerce;

6. the Freight Forwarders Association;

7. the International Trade Council - Red River Region;

8. the Lafayette International Trade Development Group;

9. the Louisiana Bankers Association for international bankers employed in Louisiana;

10. the Louisiana District Export Council;

11. the Port Association of Louisiana;

12. the South Louisiana Economic Council;

13. the World Trade Center of New Orleans Board of Directors; and

14. the Southern United States Trade Association.

SECTION 5: The secretary of the Department of Economic Development, or the secretary's designee, shall chair the commission. The membership of the commission shall elect its other officers.

SECTION 6: The commission shall meet at regularly scheduled intervals, and at the call of the chair.

SECTION 7: Support staff for the commission and facilities for their meetings shall be provided by the Department of Economic Development.

SECTION 8: Commission members shall not receive compensation or a per diem. Nonetheless, contingent upon the availability of funds, commission members who are not employed by the state may receive reimbursement for actual travel expenses, in accordance with state guidelines and procedures, upon the approval of the commissioner of Administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the commission in implementing the provisions of this Order.

SECTION 10: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of February 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9703#011

EXECUTIVE ORDER MJF 97-13

School Based Health Clinic Task Force

WHEREAS: Executive Order MJF 96-74, signed on December 16, 1996, created and established within the Executive Department, Office of the Governor, the School Based Health Clinic Task Force (hereafter "Task Force"), and ordered it to submit two reports to the governor by specified dates; and

WHEREAS: it is necessary to change the dates on which the Task Force shall submit its reports to the governor on the progress and/or fulfillment of its primary and secondary objectives and duties;

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

SECTION 1: Section 4 of Executive Order MJF 96-74, is amended to provide as follows:

The Task Force shall prepare and submit a report to the governor on the progress and/or fulfillment of its primary objectives and duties, no later than May 15, 1997, and on the progress and/or fulfillment of its secondary objectives and duties, no later than June 30, 1997.

SECTION 2: All other Sections and Subsections of Executive Order MJF 96-74 shall remain in full force and effect.

SECTION 3: The provisions of this Order are effective upon signature and shall remain in effect until amended,

modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of February, 1997.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9703#010

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Wood Destroying Insects (LAC 7.XXV. Chapter 141)

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is amending the following Rules for the implementation of Regulations governing wood destroying insects.

This emergency adoption is necessary in order that the department may immediately put into place more stringent Regulations governing the qualifications required for pest control licensees and their technicians making wood destroying inspections, and to implement new Regulations for inspecting structures and completing the wood destroying insect report.

The department has further deemed these Regulations necessary to help ensure the citizens of the state have a more accurate inspection for wood destroying insects used in property transfer.

The effective date of these Emergency Rules is February 19, 1997 and shall remain in effect for 120 days or until these Rules take effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 141. Structural Pest Control Commission

§14101. Definitions

* * *

License—a document issued by the commission which authorizes the practice and/or supervision of one or more phases of structural pest control work as follows:

1. *General Pest Control*—the application of remedial or preventive measures to control, prevent or eradicate household pests by use of pesticides used as sprays, dusts, aerosols, thermal fogs, barriers, traps and baits. Residential rodent control will be limited to the use of anti-coagulants rodenticide and traps.

2. *Commercial Vertebrate Control*—the application of remedial or preventive measures to control, prevent or eradicate vertebrates, including baits, chemicals, barriers, gases and traps, in nonresidential establishments, but not including tarpaulin fumigation.

3. *Termite Control*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects.

4. *Fumigation*—the use of lethal gases and/or rodenticide in a gaseous form for the control, prevention or eradication of insect pests, rodents, or other pests in a sealed enclosure with or without a tarpaulin.

5. *Wood Destroying Insect Report (WDIR) Inspector*—the application of remedial or preventive measures for the control, prevention or eradication of termites and other wood-destroying insects and the inspection of structures for wood-destroying insects.

* * *

Registered Wood Destroying Insect Report (WDIR) Technician—an employee qualified to conduct wood destroying insect report inspections.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:323 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 954 (November 1989), LR 17:251 (March 1991), LR 23:

§14107. License to Engage in Structural Pest Control; Work Required; Qualifications of Applicant; Requirements for Licensure; Phases of Structural Pest Control License; Conditions of the License

A. - G. ...

H. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in §14109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. General Pest Control
2. Commercial Vertebrate Control
3. Termite Control
4. Structural Fumigation
5. Ship Fumigation
6. Commodity Fumigation
7. Wood Destroying Insect Report (WDIR) Inspector

I. - P. ...

Q. Persons licensed in Termite Control on or before September 30, 1997 shall attend a wood destroying insect report training session prior to being qualified to become a licensed WDIR inspector. Said training session must have prior approval by LDAF. Persons licensed on or after October 1, 1997 and persons licensed in Termite Control on or before September 30, 1997 that do not attend a wood destroying insect report training session, shall complete the requirements set forth in §14107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 955 (November 1989), LR 19:1009 (August 1993), LR 23:

§14112. Registered Wood Destroying Insect Report Technician Requirements

A. Persons, prior to registering as WDIR technicians, shall attend a wood destroying insect report training session and have conducted with licensed or registered WDIR inspector/technician, 40 WDIR inspections, approved by licensee, or shall have a wood destroying insect report training session and a minimum of one year of experience as a registered employee in the termite phase of pest control work under a termite phase licensee; and shall pass the appropriate test with a grade of 70 percent or better. Licensee shall verify in writing of technicians' work experience.

B. The fee for the examination for the WDIR technician shall be \$25.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:

§14113. Obligations of the Licensee

A. - E. ...

F.1. The licensee must maintain his commercial applicator certification in current status by:

- a. attending a continuing educational program for recertification approved by the Louisiana Department of Agriculture and Forestry;
- b. recertification at least once every three years;
- c. a minimum of six hours of technical training which shall include but not limited to the categories of general pest control, termite control, wood destroying insect report (WDIR) inspector and commercial vertebrate control;
- d. a minimum of six hours of technical training for the category of fumigation;

2. A licensee attending an approved recertification seminar must attend the entire approved program; otherwise the licensee shall not be recertified at this approved seminar;

3. Time and location for each licensee certification can be obtained by calling or writing to the Louisiana Department of Agriculture and Forestry.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15: 956 (November 1989), LR 21:930 (September 1995), LR 23:

§14116. Wood Infestation Report

A. A wood infestation report approved by the Structural Pest Control Commission shall be issued when any inspection is made to determine the presence of wood destroying insects, specifically for acts of sale of structures, but not limited for this purpose.

B. Any wood infestation report or written instrument issued for the transfer of real property, shall be issued by a person who is licensed by the Structural Pest Control

Commission as a wood destroying insect report (WDIR) inspector or a registered wood destroying insect technician and is working under the supervision of a person who is licensed by the Structural Pest Control Commission as a WDIR inspector. This instrument shall carry a guarantee that the property will be treated without charge should live wood destroying insects with the exception, the presence of frass will be acceptable as evidence of a live infestation of Power Post Beetles; however, frass must be exuding or streaming from the holes on the outside of the wood, covered by this report, and be found within 90 days from date of inspection.

1. A contract approved by the Structural Pest Control Commission shall be issued on date of treatment.

2. This contract shall be reported to the commission and a fee paid as required by the Structural Pest Control Commission Law.

C. Regulations for completing wood destroying insect reports (LPCA-142). The following numbered sections correspond to the numbered sections on WDIR form LPCA - 142. LPCA - 142, and shall be completed as follows:

1. Enter HUD/FHA/VA Case number (if available).
2. Enter date of structure(s) inspection.
- 3A. Enter name of inspection company.
- 3B. Enter address (including street, city, state, and zip code) of inspection company.
- 3C. Enter telephone number (include area code) of inspection company.
4. Enter pest control inspector license number.
- 5A. Enter name and address of property owner/seller at the time of inspection.
- 5B. Enter address of property inspected (including street, city, state, and zip code).
- 5C. List only structures located at address in 5B that are part of this report.
- 5D. Information only. This area shall NOT be checked, circled or marked in any way.
6. If any areas of the property were obstructed or inaccessible mark box YES. If no, mark box NO.
7. Check the appropriate block as to the construction of the structure(s) inspected. More than one block can be checked.
8. This area shall NOT be checked, circled or marked in anyway.
- 9A. Check this block only when there is no visible evidence of wood destroying insects in accessible areas on the structure(s) inspected. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or damaged wood due to wood destroying insects. When this block is checked, no other block in Section 9 shall be checked.
- 9B. Check this block if evidence of wood destroying insects is observed. Evidence includes but is not limited to: live or dead wood destroying insects, wood destroying insect parts, shelter tubes, shelter tube stains, frass, exit holes or evidence of damage due to wood destroying insects. If live wood destroying insects are observed, identify and list the insect(s) observed and the location(s) in this Section.
- 9C. Check this box if visible evidence of damage due to wood destroying insects was observed. Evidence of damage is defined as obvious feeding or removal of wood by wood destroying insects including "etching" or "scabbing" marks on the wood surface(s). Identify the wood destroying insect and list the location(s) of evidence of damage caused by wood destroying insects in this Section.
- 9D. Treatment was or will be performed by inspection company? YES or Number If YES, explain as follows:
 12. Property disclosure statement provided to pest control company prior to or at the time of the inspection. Check "yes" if provided, Check "no" if not.
 13. Make no marks in this Section.
 - a. If any of the conditions listed in this Paragraph on the WDIR (LPCA-142) are present on or adjacent to the inspected structure(s), list them in Section Number 10 of this report.
 14. Signature and registration/licensee number of inspector conducting the inspection.
 15. Enter date of inspector signature.

16. Enter name of person requesting the WDIR (if available).
17. Signature of person WDIR received by (if available).
18. Title of person in Number 17 (if available).
19. Date of signature of Number 17 (if available).

D. Minimum Specifications for conducting a Wood Destroying Insect Report

1. No person shall conduct a WDIR inspection unless that person is properly licensed with the Louisiana Structural Pest Control Commission to conduct WDIR inspections or is working under the supervision of a licensed WDIR inspector and is properly registered to conduct WDIR inspections.

2. WDIR inspector/technician shall inspect all unobstructed or accessible areas.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 12:285 (May 1986), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 23:

Bob Odom
Commissioner

9703#006

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of the Commissioner**

**Emergency Airstrip for
Agricultural Purposes (LAC 7:I.107)**

In accordance with Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:18, the commissioner of Agriculture and Forestry finds that this Emergency Rule setting forth a program to designate certain roads for use as emergency airstrips for agricultural purposes is necessary for the health, safety and welfare of the citizens of Louisiana. The department published a Notice of Intent in the February 20, 1997 edition of the *Louisiana Register* of its intent to promulgate regulations setting forth a program to designate certain roads for use as emergency airstrips pursuant to the authority of R.S. 3:18; however, the earliest the department can adopt these regulations is 90 days from the publication date in the *Louisiana Register*. Weather conditions during the past several weeks have rendered unusable the agricultural turf airstrips normally employed by agricultural interests at this time of the year in preparing the planting fields. The inability of the agricultural interests to use agricultural turf airstrips creates an extreme hardship on the agricultural interests in that the cost of planting crops rises. The rise in costs has a direct adverse impact on the agricultural economy of the state.

For the reasons set forth above, the commissioner has determined that this Emergency Rule is necessary in order to implement the emergency airstrip program during the current growing season.

The Rule is effective March 3, 1997 and will remain in effect 120 days or until the final Rule becomes effective, whichever occurs first.

**Title 7
AGRICULTURE AND ANIMALS**

Part I. Administration

Chapter 1. Administrative Procedure

§107. Emergency Airstrip for Agricultural Purposes Program

A. Creation. There is hereby established within the Department of Agriculture and Forestry a program to designate certain roads as emergency airstrips to aid in the use of aircraft for agricultural purposes to be known as the "Emergency Airstrip for Agricultural Purposes Program."

B. Declaration of Emergency

1. The department may declare an agricultural emergency to exist which requires the use of portions of designated roads as airstrips for agricultural purposes when conditions are such that agricultural turf airstrips are rendered unavailable for safe use.

2. Each declaration of agricultural emergency shall be in writing and contain a declaration number, the date, and a list of the portions of designated roads which may be utilized as airstrips during the agricultural emergency.

3. The department shall provide a copy of the declaration to the sheriff and police jury for the parish in which each of the designated roads is located, and the Aviation Division of the State Department of Transportation and Development (hereinafter referred to as "DOTD") prior to utilization of the emergency airstrip. If the designated road is a state road, a copy of the declaration should also be provided to the communications center at State Police Headquarters and to the secretary of DOTD. If a designated road is located on the parish line, a copy of the declaration must be provided to the sheriff and police jury for both parishes.

4. The appropriate law enforcement entity as set forth in Subsection B.3 of this Section shall be responsible for implementing security and safety requirements for road traffic during periods when a road designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes is actually utilized for that purpose. At a minimum, the appropriate law enforcement entity shall have at least one officer at the site and signs shall be placed at each end and at all approach ramps of a designated road to notify persons that the road is designated for use as an emergency airstrip to aid in the use of aircraft for agricultural purposes. The officer will insure that whenever aircraft are in the process of landing, taking off, or taxiing, there shall be no movement of vehicles on the emergency airstrip or within 500 feet of each landing threshold of the emergency airstrip. The enforcement entity providing said officer shall have the option of cost recovery for services from the party requesting use of the emergency airstrip.

C. Designation of Roads

1. Upon declaration by the department that an agricultural emergency exists, certain roads, including but not limited to dead-end roads and strategically placed parish roads, may be designated by the department for use as airstrips to aid in the use of aircraft for agricultural purposes.

2. Whenever possible, the department shall pre-designate a portion of a road for use as an emergency agricultural airstrip for use in the event a declaration of an agricultural emergency is made by the department. The request for pre-designation must be made by mail or facsimile to the department and include the following information:

- a. location of the road marked on a topography map;
- b. reason for designation; and
- c. a statement that the road meets all the criteria set forth in Subsection C.3 or a statement setting forth the reasons why a waiver under Subsection C.4 should be issue.

3. Predesignated emergency agricultural airstrips shall be inspected and registered by DOTD Aviation using similar criteria as utilized by DOTD in the registration of an agricultural use permanent airstrip. The registration certificate shall be issued to and held by the department. The registered and designated airstrip shall be marked and signed as such. Persons seeking predesignation must contact the Aviation Division of DOTD for specifications regarding the appropriate marking and signage required for the registered and designated emergency airstrip.

4. The department may authorize use of airstrips which have not been pre-designated and registered with the Aviation Division of DOTD, on a case by case basis, when safety and aircraft performance would not be compromised by such waiver and the use of said road as an emergency agricultural airstrip is deemed necessary by the department. Any such airstrip authorized shall, at a minimum, meet all of the following:

- a. the surface must be flat and straight for a minimum distance to 2,000 feet;
- b. the width shall be a minimum of 20 feet for the full length of the landing area. Sufficient wing tip clearance shall be provided as required for the aircraft utilizing the emergency agricultural airstrip;
- c. there shall be no potholes or depressions greater than 3 inches in depth over the entire landing surface;
- d. there shall be no vertical obstructions such as utility poles, trees, buildings, road signs, mail boxes, etc., on more than one longitudinal side of the landing surface;
- e. there shall be no overhead obstructions such as utility lines, overpasses, bridges, etc., for the full length of the landing area and within 500 feet of each landing area threshold;
- f. each landing area threshold shall be marked in such a way as to be readily identified from an aircraft in flight (e.g., white or orange cones, buckets, or painted tires); and
- g. threshold markers shall be placed on either side of the landing area at the thresholds and shall be no taller than 24 inches.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:18.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom
Commissioner

9703#015

DECLARATION OF EMERGENCY

Department of Economic Development Racing Commission

Qualifications for Jockey/Apprentice Jockey and
Applicant for License (LAC 46:XLI.701 and 703)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., amends the following Emergency Rule effective March 7, 1997, and it shall remain in effect for 120 days or until this Emergency Rule takes effect through the normal promulgation process, whichever occurs first.

The Racing Commission finds it necessary to amend this Rule to eliminate probationary rides/mounts. This will prevent any jockey or apprentice jockey from riding while unlicensed.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§701. Qualifications for Jockey/Apprentice Jockey

Any person desiring to participate in this state as a jockey and has never ridden in a race may be issued a jockey or apprentice jockey license upon the recommendation of the stewards granting permission to such person for the purpose of riding in two races to establish the qualifications and ability of such person for the license, provided, however:

1. such person has the qualifications of a permittee and has at least one year of experience with racing stables;
2. a licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be granted a jockey or apprentice jockey license;
3. the starter has schooled such person breaking from the starting gate with other horses and approves such person as capable of starting a horse properly from the starting gate in a race;
4. the stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other riders in the race.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150 and R.S. 4:169.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:26 (January 1977), repromulgated LR 4:275 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:

§703. Applicant for a License

A. In addition to Rules applicable to permittees, an applicant for a license as a jockey or apprentice jockey:

1. must have served at least one year with racing stables;
2. must provide an annual medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey or exercise person.

B. The stewards may require that any jockey or exercise person provide blood or urine samples for analysis after consultation with the track physician. Should a jockey or exercise person fail to comply with this requirement this person shall be suspended and referred to the commission to show cause for refusing to do so.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148, R.S. 4:150, R.S. 4:151 and R.S. 4:169.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 2:430 (December 1976), LR 3:27 (January 1977), repromulgated LR 4:275 (August 1978), amended LR 10:593 (August 1984), amended by the Department of Economic Development, Racing Commission, LR 23:

Paul D. Burgess
Executive Director

9703#039

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Water Resources

Produced Water Discharge Extension [Adoption of Emergency Rule] (WP023E-B)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (department) to use emergency procedures to establish Rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate Rules and Regulations, and to issue compliance schedules, the secretary of the department hereby finds that imminent peril to the public welfare exists. The department adopts the Emergency Rule published below (LAC 33:IX.708.C)(WP023E-B) effective February 26, 1997, for 120 days, or until promulgation of the final Rule, whichever occurs first.

This Emergency Rule replaces WP023E and WP023E-A, published in the *Louisiana Register* on January 20, 1997. Accordingly, Emergency Rules WP023E and WP023E-A are repealed by the adoption of Emergency Rule WP023E-B. Adopted this 26th day of February, 1997.

J. Dale Givens
Secretary

9703#009

DECLARATION OF EMERGENCY

Department of Environmental Quality Office of Water Resources

Produced Water Discharge Extension [Declaration of Emergency] (LAC 33:IX.708) (WP023E-B)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, which allow the Department of Environmental Quality (department) to use emergency procedures to establish Rules, and of R.S. 30:2011 and R.S. 30:2074, which allow the department to establish standards, guidelines, and criteria, to promulgate Rules and Regulations, and to issue compliance schedules, the secretary of the department made a finding that imminent peril to the public welfare exists. The department adopted Emergency Rule WP023E-B effective February 26, 1997, for 120 days, or until promulgation of the final Rule, whichever occurs first.

Adoption of Emergency Rule WP023E-B repealed and replaced Emergency Rules WP023E and WP023E-A, published in the *Louisiana Register* on January 20, 1997.

This Declaration of Emergency provides the reasons for the secretary's finding and includes specific reasons why the failure to adopt the Rule on an emergency basis would result in imminent peril to the public welfare.

Regulatory History of Produced Water

The secretary hereby finds the following to be the history of produced water and its regulation in the State of Louisiana:

1. Discharges of produced water have existed since the 1940's.

2. A 1953 Rule allowed produced water discharges to any stream not used for drinking water purposes.

3. By 1968, discharge to most freshwater areas was banned.

4. Many LWDPs permits have prohibited discharges of produced water beginning in 1988.

5. In March of 1991, state regulations were promulgated concerning produced water. DEQ's 1991 regulations required a phase-out of coastal produced water discharges by 1997.

- a. Continued produced water discharges to major deltaic passes of the Mississippi and Atchafalaya Rivers could be authorized in a valid LWDPs permit.

- b. DEQ Regulations provided for extensions of time to discharge produced water in coastal regions up to January 1, 1997.

- c. All discharges of produced water (except for those to Mississippi and Atchafalaya River areas) had to cease by January 1, 1997.

6. EPA Region 6 issued NPDES general permits effective February 1995.

- a. The general permits prohibit discharge of produced water to Louisiana and Texas coastal waters.

- b. Although the general permits absolutely prohibit any discharge of produced water of coastal origin, exceptions to that prohibition are found in an EPA administrative order, effective February 1995. That order allowed extensions of time to comply with the prohibition until January 1997.

c. The general permit effective in Louisiana did not cover discharges of produced water from the offshore subcategory to the Mississippi River and the Atchafalaya River (below Morgan City).

7. EPA guidelines and standards for coastal waters were promulgated in December 1996 and effective on January 14, 1997 (the guidelines).

a. The guidelines banned *all* discharges to the coastal area.

b. The guidelines required all remaining Mississippi and Atchafalaya River discharges to cease.

c. The federal guidelines note at page 66122-23 the following:

"EPA received numerous comments from operators in the Gulf of Mexico coastal region claiming that they would need additional time to comply with the Rule's zero discharge requirement for produced water. EPA recognizes that it may take some time for operators to determine the best and most cost effective mechanism of compliance and to implement that mechanism. EPA also recognizes that the NPDES permit issuing authority has discretion to use administrative orders to provide the requisite additional time to meet zero discharge."

d. The Department's Office of Water Resources became the NPDES permit issuing authority for the State of Louisiana on August 27, 1996.

e. Consistent with the guidelines, EPA has recognized the need to allow additional time for facilities to come into compliance with the ban.

f. EPA issued administrative orders in the State of Texas that document continued produced water discharges after the January 14, 1997 deadline and which set forth compliance schedules for the termination of such discharges over a period of two years.

8. On December 30, 1996, the department issued Emergency Rule WP023E to prevent imminent peril to the public welfare, specifically to prevent the loss of employment, taxes, and royalties that would result if all remaining produced water discharges were eliminated on January 1, 1997.

a. The Emergency Rule allowed additional time for a limited number of facilities to cease produced water discharges.

b. Emergency Rule WP023E-A was issued on January 6, 1997, to correct an omission in the original Emergency Rule.

c. Emergency Rule WP023E-B repealed and replaced Emergency Rules WP023E and WP023E-A.

Additional Findings

The secretary also finds the following:

1. Facilities were still discharging produced water on January 1, 1997.

2. Facilities still discharging produced water after January 1, 1997 are subject to enforcement action by both DEQ and EPA.

3. Produced water is a commonly produced byproduct of oil and gas production.

4. To continue operating, an oil and gas production facility for which produced water is a natural byproduct must either discharge the produced water or inject it into an injection well approved by the Department of Natural Resources.

5. For various reasons, certain facilities would not be able to cease all discharges by January 1, 1997:

a. The Department of Natural Resources experienced a personnel shortage, which prevented it from processing before January 1, 1997, all of the applications for injection wells on file in December 1996.

b. Some Mississippi and Atchafalaya River dischargers had valid state permits allowing continued discharge (in conflict with the December 1996 federal guidelines and standards).

c. Some bay dischargers had relied on Department of Energy study results to allow continued discharge by state permit.

6. The federal guidelines at page 66087 note the reliance of bay dischargers on the DOE study:

"The United States Department of Energy (DOE) has provided the State of Louisiana with comments and analyses suggesting a change to the Louisiana state law requiring zero discharge of produced waters to open bays by January 1997. Promulgation of [these December 16, 1996 federal guidelines] would generally preclude issuance of permits allowing discharges."

7. The department accepted information that was part of the DOE study referenced in LAC 33:IX.708.C.2.b.iv.(e), as documented at 61 Federal Regulation 66087.

8. The DOE study results focus on minimal water quality impact to urge discharges be allowed.

9. The EPA guidelines use Best Available Technology (BAT) to require all discharges to cease.

Findings and Considerations Regarding Environmental and Economic Costs and Benefits

The secretary is the primary public trustee of the environment. He has a duty to provide environmental protection insofar as possible and consistent with the health, safety, and welfare of the people of the State of Louisiana. In fulfillment of that duty, the secretary finds that the adverse environmental impacts resulting from issuance of Emergency Rule WP023E-B have been minimized or avoided as much as possible consistent with the public welfare, as detailed below.

Environmental Costs and Benefits

Environmental costs and benefits were considered. During the 1953 to 1997 time frame, produced water discharges to areas of greatest environmental impact were limited or eliminated. Of the coastal area discharges which now remain, the majority of discharges are to major passes of the Mississippi River or to bay areas. These areas have less potential for environmental damage than locations such as dead end canals, due to greater water circulation.

As part of the development and consideration for the March 1991 regulations that prohibited produced water discharges, DEQ, in cooperation with the Louisiana State University Institute for Environmental Studies, performed a

DECLARATION OF EMERGENCY

Office of the Governor Crime Victims Reparations Board

Definitions (LAC 22:XIII.103)

The following amendments are published in accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 46:1801 et seq., the Crime Victims Reparations Act, which allows the Crime Victims Reparations Board to promulgate Rules necessary to carry out its business or the provisions of the Chapter. The board hereby finds that an emergency exists whereby victims, or the claimants in the case of deceased victims, will suffer an immediate, detrimental financial loss in federal grants estimated at \$6,724,000 over the next year if these amendments are not immediately implemented. This Emergency Rule provides for a broader definition of a victim to include those Louisiana residents who are victims of an act of terrorism whether the terrorism occurs in the United States or in another country. Furthermore, the changes remove any restrictions that would prohibit a victim from receiving compensation solely because another state or country had a compensation program, and will ensure compliance with federal grant requirements. In order to prevent additional harm to victims and their families, the board adopts this Emergency Rule effective April 1, 1997. It shall remain in effect for 120 days or until the final Rule takes effect through the normal promulgation process, whichever comes first.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part XIII. Crime Victims Reparations Board

Chapter 1. Authority and Definitions

§103. Definitions

* * *

Victim—

* * *

b. a resident of Louisiana who is a victim of an act of terrorism(as defined in Section 2331 of Title 18, *United States Code*) occurring outside the U.S., or

c. a Louisiana resident who suffers personal injury or death as a result of a crime described in R.S. 46:1805 except that the criminal act occurred outside of this state. The resident shall have the same rights under this Chapter as if the Act had occurred in this state upon a showing that the state in which the act occurred does not have an eligible crime victims reparations program and the crime would have been compensable had it occurred in Louisiana. In this Subparagraph, *Louisiana Resident* means a person maintained a place of permanent abode in this state at the time the crime was committed for which reparations are sought.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:538 (May 1994), amended LR 20:709 (August 1996), LR 23:

Lamarr Davis
Chairman

9703#008

DECLARATION OF EMERGENCY

Department of Health and Hospitals Board of Veterinary Medicine

Animal Euthanasia Technicians Suspension of Rule (LAC 46:LXXXV.1201)

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective March 10, 1997, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and it shall be in effect for 120 days.

It has come to the attention of the Board of Veterinary Medicine that persons have completed the board's approved certified animal euthanasia technician course, but, acting in good faith, did not complete the certification process. Further, these persons have been performing the functions of certified animal euthanasia technicians. Upon learning of this violation of the Rules for certification, these persons have reported themselves to the board and requested certification. Under its current Rule LAC 46:LXXXV.1201.E, the board may not accept the application for certification from these persons for a two-year period. The rejection of these applications has the great potential of leaving some animal shelters in the state without a certified animal euthanasia technician, thereby hindering these shelters' ability to control the animal population in their communities, including the ability to euthanize diseased or otherwise dangerous animals.

Therefore, to protect the public health and safety, the board has suspended LAC 46:LXXXV.1201.E for a period of 120 days, to allow persons who have already completed the board's approved course for certified animal euthanasia technicians to receive temporary certificates in accordance with LAC 46:LXXXV.1207.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 12. Certified Animal Euthanasia Technicians

§1201. Applications for Certificates of Approval

A. - D. ...

E. *Suspended for 120 days, effective March 10, 1977.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1558.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1424 (November 1993), amended LR 23:

Charles B. Mann
Executive Director



DECLARATION OF EMERGENCY

**Department of Health and Hospitals
Board of Veterinary Medicine**

Professional Conduct— Specialty
List (LAC 46:LXXXV.1063)

The Board of Veterinary Medicine has adopted the following Emergency Rule, effective March 10, 1997, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B), and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

This Emergency Rule is necessary to promote the public health, safety, and welfare by safeguarding the people of this state from veterinarians who may state or imply that they are certified or recognized specialists without appropriate board certification in such specialty, thereby protecting the public from the actions of persons who could otherwise claim to be specialists.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXXXV. Veterinarians

Chapter 10. Rules of Professional Conduct

§1063. Specialty List

A. ...

B. A veterinarian may not use the term *specialist* for an area of practice for which there is not AVMA recognized certification.

C. A diplomate of the American Board of Veterinary Practitioners can claim only a specialty for the class of animals in which he specializes, not for medical specialties unless he is board-certified in those medical specialties.

D. The term *specialty* or *specialists* is not permitted to be used in the name of a veterinary hospital unless all veterinary staff are board-certified specialists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518(A)(9).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), LR 23:

Charles B. Mann
Executive Director

9703#055

DECLARATION OF EMERGENCY

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

Orleans Parish Individual Sewage

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 36:258(B) and 40:5(9), the secretary of the Department of Health and Hospitals is adopting the following Emergency Rule governing installation of individual sewage systems in certain

areas of Orleans Parish. Concurrently, a Notice of Intent to establish a permanent Rule is being published in accordance with the Administrative Procedure Act, R.S. 49:953(B).

The present Rule inadvertently prohibits those individuals with failing and/or inadequate sewage treatment systems from upgrading or replacing their systems thereby exposing their families to disease and pollution of the state's waterways.

The effective date of this Emergency Rule is February 17, 1997, and shall remain in effect for 120 days or until the Rule takes effect through the normal promulgation process, whichever occurs first.

Emergency Rule

The Department of Health and Hospitals, Office of Public Health prohibits the installation of individual sewage systems in the following areas of Orleans Parish:

- 1) property between the Chef Pass and the Rigolets, outside the hurricane protection levee; and
- 2) property on the Lake Pontchartrain side of the LandM Railroad tracks that parallel Hayne Boulevard outside the hurricane protection levee; and
- 3) property on either side of US Highway 11 between Powers Junction and Interstate 10, commonly referred to as Irish Bayou.

This does not preclude the installation of approved individual sewage disposal systems on individually owned lots of record, i.e., those legally established and duly recorded with the parish prior to July 28, 1967, or those lots legally established and duly recorded with the parish that meet the minimum lot size prescribed in the State Sanitary Code.

Bobby P. Jindal
Secretary

9703#013

DECLARATION OF EMERGENCY

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

Case Management Services Reimbursement
Infants and Toddlers with Special Needs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following Emergency Rule in accordance with the Administrative Procedure Act, R.S. 49:953(B) et seq., and it shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing currently provides reimbursement for optional targeted case management services to infants and toddlers who are categorized as developmentally disabled under the ChildNet Program.

An Emergency Rule was adopted on September 24, 1996, limiting case management services to those infants and toddlers who either receive services under the MR/DD waiver or who receive two or more specified Medicaid services

(*Louisiana Register*, Volume 22, Number 9). The department subsequently repealed the September 24, 1996 Emergency Rule and reduced the reimbursement rate for these services, effective December 1, 1996, in a subsequent Emergency Rule (*Louisiana Register*, Volume 22, Number 11).

After consultation with the Department of Education regarding ChildNet Services, the bureau has now determined it is necessary to increase the reimbursement for case management services for infants and toddlers. This action is necessary to maintain the health and welfare of these children by assuring continued access to case management services to assist their families in obtaining necessary medical, social and educational services.

It is anticipated that implementation of this Emergency Rule will increase expenditures by approximately \$88,400 for the remainder of fiscal year 1996-1997.

Emergency Rule

Effective for dates of service on or after March 13, 1997, the Department of Health and Hospitals, Bureau of Health Services Financing increases reimbursement for case management services for infants and toddlers with special needs to \$115.

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

Bobby P. Jindal
Secretary

9703#044

DECLARATION OF EMERGENCY

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

Disproportionate Share Hospital Payment Methodology

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted the following Emergency Rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This Emergency Rule is in accordance with the Administrative Procedure Act R.S. 49:953(B) et seq. and shall be in effect for the maximum allowed under the Administrative Procedure Act or until adoption of the Rule, whichever occurs first.

Hospital disproportionate share (DSH) payment limits were established by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) which amended Section 1923 of the Social Security Act. In order to comply with the budgetary limitations imposed by that federal regulation and to avoid a

budget deficit in the medical assistance programs, the bureau amended the payment methodologies for public state-operated hospitals, private hospitals, and public nonstate hospitals effective July 1, 1995. Under that methodology, public state-operated hospitals receive DSH payments equal to 100 percent of the hospital's net uncompensated costs, and private hospitals and public nonstate hospitals received DSH payments according to a formula based on an eight-pool methodology.

In order to assure continued fiscal viability of community hospitals, Act Number 17 (House Bill Number 1) of the 1996 Louisiana Legislature provides for separate treatment of disproportionate share funds for uncompensated costs in small (60 beds or less) nonstate-operated local government hospitals and small (60 beds or less) private rural hospitals. To accommodate this proviso, this Emergency Rule provides that all hospitals other than public state-operated hospitals are separated into two groups: the first is composed of small (60 beds or less) nonstate-operated local government hospitals and small (60 beds or less) private rural hospitals, and the second contains all other hospitals. The latter group is composed of two pools, acute care hospitals and psychiatric hospitals. Previous provisions concerning DSH methodology for public state-operated hospitals continues unchanged. There is no increase or decrease in DSH funds as the result of this Emergency Rule, therefore there is no fiscal impact to the state or federal government.

Failure to adopt this Emergency Rule on an emergency basis could result in unavailability of local hospital services for Medicaid recipients in areas served by these hospitals, and would cause imminent peril to the public health, safety, or welfare of affected Medicaid recipients.

Emergency Rule

The Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies excluding disproportionate share qualification criteria and establishes the following regulations to govern the disproportionate share hospital payment methodologies for public state-operated, private hospitals and public nonstate hospitals.

I. General Provisions

A. Reimbursement will no longer be provided for indigent care as a separate payment in hospitals qualifying for disproportionate share payments.

B. Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state allotment for each federal fiscal year or the state appropriation for disproportionate share payments for each state fiscal year. The department shall make necessary downward adjustments to hospitals' disproportionate share payments to remain within the federal disproportionate share allotment or the state disproportionate share appropriated amount.

C. Appropriate action shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital determined under any of the methodologies below shall not exceed the hospital's