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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 94-20

WHEREAS: the epidemic of the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) continues unabated in this country and in this state; and

WHEREAS: the urgency of this situation requires a concerted response by the executive branch of state government; and

WHEREAS: the Louisiana Commission on HIV and AIDS created by R.S. 40:2018.1 will expire by action of law on September 1, 1994; and

WHEREAS: the efforts of that commission and its members are to be commended; and

WHEREAS: a successor commission existing within the executive branch to coordinate and supervise all HIV and AIDS activities in this state is both necessary and desirable;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: There shall be established within the Office of the Governor a commission which shall be designated the "Louisiana Governor's Commission on HIV and AIDS" which shall come into existence and shall start discharging its duties on September 1, 1994.

SECTION 2: The functions of the Louisiana Governor's Commission on HIV and AIDS shall be to:

1. serve as an advisory body to the governor on HIV and AIDS related matters;
2. serve as the coordinating authority on HIV and AIDS related matters between and among state agencies, local government, and nongovernmental groups;
3. research and review all state activities, regulations, guidelines, policies, and procedures relative to prevention and treatment of HIV infection and AIDS;
4. make recommendations no less frequently than annually to the governor;
5. conduct an annual public hearing on HIV and AIDS related matters;
6. solicit, consider and disseminate public comment and peer review on federal and state-funded programs related to HIV and AIDS; and
7. carry out such other tasks related to HIV and AIDS as the governor may request from time to time.

SECTION 3: There shall be 18 members of the Louisiana Governor's Commission on HIV and AIDS, appointed by the governor as follows:

1. a chairperson who shall be a full member of the commission with voice and vote;
2. two persons infected with the Human Immunodeficiency Virus (HIV), at least one of whom

represents a racial, ethnic or cultural subpopulation;

3. two representatives of community-based provider organizations providing services to persons infected with HIV, at least one of whom represents a racial, ethnic or cultural subpopulation;

4. one representative from each of the nine Ryan White Regional Consortia in Louisiana;

5. the chancellor of the Louisiana State University School of Medicine, or his or her designee;

6. the superintendent of the Department of Education, or his or her designee;

7. the secretary of the Department of Social Services, or his or her designee; and

8. the secretary of the Department of Health and Hospitals, who shall serve in person and not through a designee.

SECTION 4: Any vacancy shall be filled by the governor in the category in which the vacancy occurs.

SECTION 5: The commission shall hold at least six regular meetings each year at places designated by the chairman. At least two of these regular meetings shall be in part for the purpose of reviewing reports of the Ryan White Regional Consortia. All meetings of the commission shall be convened in the state of Louisiana.

SECTION 6: All members of the commission shall serve without salary. They shall be compensated for travel in connection with the commissions meetings and official commission business as approved by the Office of the Governor and in accordance with the travel regulations of the Division of Administration.

SECTION 7: This order shall take effect immediately upon promulgation.

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 13th day of June, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 94-21

WHEREAS: pursuant to the Tax Reform Act of 1986 (the "act") and Act 51 of the 1986 Louisiana Legislative Session, Executive Order No. EWE 92-47 establishing (i) a method for the allocation of bonds subject to the private activity bond volume limits, including the method of allocation of bonds subject to the private activity bond volume limits for this calendar year 1994 (the "1994 ceiling"), (ii) the procedure for obtaining an allocation of bonds under the 1994 Ceiling, and (iii) a system of central record keeping for such allocations; and

WHEREAS: the Parish of St. Charles has requested an allocation from the 1994 ceiling to be used in connection with the financing of the acquisition, or purchase of certain solid waste disposal facilities and water pollution control facilities (the "project") at Unite 3 (nuclear) of the Waterford Steam Electric Station of Louisiana Power and Light Company located in St. Charles Parish, Louisiana; and

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

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

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

SECTION 1: That the bond issue described in this Section is hereby granted an allocation from the 1994 ceiling in the amount shown:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$12,000,000	Parish of St. Charles	Louisiana Power & Light Company

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

SECTION 3: The allocation granted hereby shall be valid and in full force and effect through November 30, 1994, provided that such bonds are delivered to the initial purchasers thereof on or about November 30, 1994.

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. 92-47, supercedes and prevails over the provisions of such executive order.

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

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

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 27th day of June, 1994.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

WHEREAS: Executive Order No. EWE 94-6 was executed to create the Louisiana Statewide Wetlands Advisory Task Force; and

WHEREAS: it is necessary to amend Executive Order No. EWE 94-6 by adding one additional member;

NOW, THEREFORE, I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the State of Louisiana, do hereby amend Executive Order No. EWE 94-6 by adding one member, the governor or his designee.

SECTION 1: All other orders and directions of Executive Order No. EWE No. 94-6 remain in effect.

SECTION 2: The provisions of this executive order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

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 6th day of July, 1994.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

"One Day to Make a Difference"
Pest Management

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

The members of the Pest Control Association (the "association") and the Structural Pest Control Commission (the "commission") have scheduled the month of June, 1994, for its "One Day to Make a Difference" activity. During this month, members of the association will work to help individuals and organizations in need better their quality of life through improved pest management by donating pest control

services at locations that are in need of, but unable to afford such services.

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

Rule 1. The regulations described below are declared suspended and will not be enforced in connection with structural pest control work performed by members of the Pest Control Association in connection with that association's "One Day to Make a Difference" program:

- a. the fee for termite contracts required under LAC 7:XXV.14113.M; and
- b. the requirements of LAC 7:XXV.14115 pertaining to contracts.

Rule 2. The regulations suspended by Rule 1 above are suspended only in connection with structural pest control work performed on buildings and structures at the following specific locations:

4838 Peerless Baton Rouge, LA	4956 Longfellow Baton Rouge, LA	Two houses corner of Florence and Kelly Streets Alexandria, LA
4848 Peerless Baton Rouge, LA	1806 Marye Street Alexandria, LA	Pretreat of house at corner of Ernest and 18th Streets Lake Charles, LA
4858 Peerless Baton Rouge, LA	1332 Madison St. Shreveport, LA	1712 Clanton Street Shreveport, LA
1136 Portland Avenue Shreveport, LA	5206 Carl Terrace St. Shreveport, LA	1517 Rex Street Shreveport, LA
4137 Baxter Street Shreveport, LA	2305 C.E. Galloway Bl. Shreveport, LA	1536 Anna Street Shreveport, LA
1905 George Washington Carver Shreveport, LA	1212 LaSalle Street Lafayette, LA	2154 Freddie Street Shreveport, LA
4101 Crosby Street Shreveport, LA	403 St Charles Lafayette, LA	2731 Hawkins Shreveport, LA
5237 Peerless Baton Rouge, LA	116 Brina Lane Carencro, LA	1509 Milam Street Shreveport, LA

The pest control work on these properties shall be completed by 12:01 a.m., July 1, 1994.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Division of Pesticides and Environmental Programs

Azinphos-Methyl

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

The department has determined that these emergency rules are necessary in order to implement a monitoring program and registration and permitting requirements during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. These emergency rules become effective June 30, 1994 and will remain in effect 120 days.

Regulations Governing Applications of Azinphos-Methyl

A. Registration Requirements

1. The commissioner hereby declares that prior to making any aerial applications of azinphos-methyl to sugarcane, the aerial owner/operator must first register such intent by notifying the Division of Pesticides and Environmental Programs (DPEP) in writing.

2. The commissioner hereby declares that prior to selling azinphos-methyl to be applied on sugarcane, the dealer must first register such intent by notifying the DPEP in writing.

3. The commissioner hereby declares that prior to making recommendations for application of azinphos-methyl to sugarcane, the agricultural consultant must first register such intent by notifying the DPEP in writing.

B. Grower Liability. Growers of sugarcane shall not force or coerce applicators to apply azinphos-methyl to their crops when the applicators, conforming to the Louisiana Pesticide Law and regulations or the pesticide label, deem it unsafe to make such applications. Growers found to be in violation of this Section shall forfeit their right to use azinphos-methyl on their crops, subject to appeal to the Advisory Commission on Pesticides.

C. Procedures for Permitting Applications of Azinphos-Methyl

1. Prior to any application of azinphos-methyl to sugarcane, approval shall be obtained in writing from the Louisiana Department of Agriculture and Forestry (LDAF). Such approval is good for five days from the date issued. Approval may be obtained by certified agricultural consultants from the DPEP. Where farmers do not use agricultural consultants, approval must be obtained by the private applicator or aerial applicators employed by such farmers from DPEP.

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

- a. weather patterns and predictions;
- b. soil moisture;
- c. propensity for run-off;
- d. drainage patterns;
- e. quantity of acreage to be treated;
- f. extent and presence of vegetation in the buffer zone between application site and water body;
- g. water monitoring results; and
- h. any other relevant data.

D. Monitoring of Azinphos-Methyl

1. Agricultural consultants registered to recommend azinphos-methyl on sugarcane shall report daily to the DPEP, on forms prescribed by the commissioner, all recommendations for applications of azinphos-methyl to sugarcane.

2. The department shall maintain a water monitoring program for azinphos-methyl.

a. Water sample collection sites shall be distributed throughout the sugarcane growing region of the state. The locations of said sites shall be selected by criteria including, but not limited to:

i. those areas that have agricultural land use for the growing of sugarcane where azinphos-methyl has been recently applied, including but not limited to those sites where azinphos-methyl has been involved in recent kill incidents;

ii. those areas that have water drainage from sugarcane lands; and

iii. the propensity for run off due to topography, soil types, and other characteristics.

b. The water sampling frequency shall be monthly intervals.

c. Base line conditions of azinphos-methyl at each water sampling site shall be established by water sampling and analysis prior to the application season.

d. The analysis of water samples shall be accomplished in accordance with procedures of the Association of Official Analytical Chemists and/or other methods approved by the U.S. Environmental Protection Agency (EPA), and shall be conducted by and costs assumed by the registrants of azinphos-methyl.

3. The commissioner shall consider results of the analysis of the samples from both monitoring programs, the criteria established in R.S. 3:3306 (c)(1)-(11), and/or other relevant data to determine whether a threat or reasonable expectation of a threat to human health or to the environment exists.

E. Determination of Appropriate Action

1. Upon determination by the commissioner that a threat or reasonable expectation of a threat to human health or to the environment exists, he may consider:

- a. stop orders for use, sales, or application;
- b. label changes;
- c. remedial or protective orders;
- d. any other relevant remedies.

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741—Math Requirements

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule, an amendment to the math requirements for high school graduation. This amendment will permit more flexibility in the math requirements and is an amendment to Bulletin 741, Louisiana Handbook for School Administrators, pages 75 and 84.1. This amendment was adopted as an emergency rule, effective March 24, 1994 and printed in full on page 378 in the April, 1994 issue of the *Louisiana Register*.

Re-adoption of the amendment is necessary in order to continue the present emergency rule for 120 days or until it is finalized as a rule, whichever occurs first. Effective date of this emergency rule is July 24, 1994.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1525—Principal Evaluation Committee Report

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and re-adopted as an emergency rule, the Principal Evaluation Report which will become Appendix C of Bulletin 1525, Guidelines for Personnel Evaluation.

The Principal Evaluation Committee Report was adopted as an emergency rule, effective March 24, 1994 and printed in full on pages 378-383 of the April, 1994 issue of the *Louisiana Register*. Re-adoption as an emergency rule is necessary in order to continue the present emergency rule until it is finalized as a rule or for 120 days, whichever occurs first. The effective date of this emergency rule is July 24, 1994.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Teacher Assessment Program (LAC 28:I.917)

The State Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved for advertisement the Louisiana Teacher Assessment Program, Policies and Procedures for Louisiana Teacher Assessment, which is part of the Louisiana Teacher Appraisal Instrument Panel Report (Panel IV). Section X, Grievance Procedure, is not included in the policies and procedures at this time, but will be added after board approval.

The policies and procedures will be printed as part of the Louisiana Teacher Assessment Program Training Manual and will be disseminated to the local education agencies (LEAs) and all public schools statewide.

Emergency adoption is necessary in order for the LEAs to have copies before the beginning of school year 1994-95, since full implementation of the Louisiana Teacher Assessment Program will begin with the 1994-95 school year and is mandated by the Louisiana Legislature, Third Extraordinary Session, 1994. The effective date of this emergency rule is June 23, 1994, and it will remain in effect for 120 days or until adoption as a final rule, whichever occurs first.

This document may be viewed in its entirety in the Office of the State Register, 1051 North Third Street, Fifth Floor, in the Office of Research and Development, State Department of Education, or in the Office of the Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge, LA. The Policies and Procedures for Louisiana Teacher Assessment will be referenced in the Administrative Code, Title 28 as noted below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §917. Personnel Evaluation Standards and Regulations

* * *

B. Teacher Assessment and Evaluation

* * *

2. Policies and Procedures for Louisiana Teacher Assessment (June, 1994) are adopted.

The Louisiana Teacher Assessment Program, which provides for the support and assessment of new teachers, was mandated by the Louisiana Legislature in the Third Extraordinary Session of 1994. The Policies and Procedures for the Louisiana Teacher Assessment are the guidelines by which a teacher teaching in Louisiana public schools for the first time will be assessed. The policies and procedures set forth the philosophy and purposes of the Louisiana Teacher Assessment Program as well as the timelines for conducting the assessments.

AUTHORITY NOTE: R.S. 17:3881-3884, R.S. 17:3891-3896 and R.S. 17:3901-3904.

HISTORICAL NOTE: Amended LR 20:

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Teacher Tuition Exemption Program (LAC 28:I.921)

The State Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and repealed the current regulations for the Tuition Exemption Program for Teachers (FY 93-94), since the board is no longer funding the Teacher Tuition Exemption Program which was established by the Legislature. Two new professional development programs will be funded with the 8(g) funds previously allocated to the Tuition Exemption Program.

Emergency adoption is necessary in order for the colleges, universities, and teachers to be apprised of the action. The effective date of this emergency rule is June 23, 1994, and it will remain in effect for 120 days or until finalized as a rule.

This action is also an amendment to the Administrative Code, Title 28. The reference to the teacher tuition exemption program for FY 93-94 is deleted from LAC 28:I.921.

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans §921. Quality Education Support Fund 8(g)

A. Bulletin 921: Policy Manual

The board adopted the 8(g) Policy and Procedure Manual for the Louisiana Quality Education Support Fund for elementary, secondary and post secondary vocational-technical education. The manual includes regulations on public participation, eligibility criteria, and general provisions and clarification of the program. The manual also includes procedures for the establishment of an annual program and budget, for application for monies, and for program administration. It establishes an advisory council, and it includes a calendar of activities.

B. Tuition Exemption: VTIE Teachers

Introduction. Regulations for the tuition exemption program, adopted by the board, for full-time or secondary teachers holding VTIE certificates, are incorporated into Bulletin 921 and are subject to administrative interpretation by the Louisiana Department of Education.

AUTHORITY NOTE: Promulgated in accordance with LA Constitution, Art. VII, Section 10.1, R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 14:10 (January 1988), amended LR 14:146 (February 1988), LR 14:228 (March 1988), LR 14:393 (April 1988), LR 14:702 (October 1988), LR 14:790 (November 1988), LR 14:862 (December 1988), LR 15:8 (January 1989), LR 15:181

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Waivers of Minimum Standards (LAC 28:I.313)

The State Board of Elementary and Secondary Education, at its meeting of June 23, 1994, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved for advertisement, a revision to LAC 28:I.313 as stated below:

Title 28 EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 3. Rules of Procedure

§313. Waivers of Minimum Standards: Procedures

* * *

D. Administrative Waivers of Certification Standards. Certification appeals categories are listed below with guidelines for handling each area by the Bureau of Teacher Certification.

* * *

4. Waivers of Practicum and Student Teaching Requirements when all Coursework is Completed

a. Appeal Requested and Guidelines

i. Waiver of practicum requirements: Practicum requirements, with the exception of the tests and measurements practicum, may be waived with three years of experience in the appropriate area if all other coursework is completed; or a temporary certificate may be issued if all academic requirements have been met. This will allow the teacher to continue his/her present position while gaining the necessary experience to apply for the waiver.

ii. Waiver of student teaching when a state approved program is completed: Student teaching may be waived when the applicant has had three years of experience. This will be granted only if all coursework has been completed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10); R.S. 17:7(5)(6)(7); R.S. 17.7.1; R.S. 17:1941 et seq. and R.S. 17:458.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 15:962 (November 1989), amended LR 16:297 (April 1990), LR 16:396 (May 1990), LR 16:1056 (December 1990), LR 18:602 (June 1992), LR 19:173 (February 1993), LR 19:739 (June 1993), LR 20:

Emergency adoption of the amendment will increase the number of certified special education teachers available for employment for the 1994-95 school year. Effective date of emergency rule is June 23, 1994, for 120 days or until the final rule takes effect, whichever occurs first.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

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

Fugitive Emission Control for Ozone Nonattainment Areas (LAC 33:III.2122) (AQ84E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, ozone-nonattainment area around Baton Rouge. It is necessary for the DEQ to adopt this emergency edit to LAC 33:III.2122, an existing rule, to show compliance with the 15 percent Volatile Organic Compound (VOC) Reduction Reasonable Further Progress Plan in accordance with the 1990 CAAA.

The immediate impact of this edit to the existing rule is to support the Reasonable Further Progress Plan (RFP) which is to be submitted to the Environmental Protection Agency (EPA).

The full text of this emergency rule is identical to the text of a notice of intent which was published in its entirety on pages 682 through 687 of the June, 1994 *Louisiana Register*.

This emergency rule is effective on July 13, 1994, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

James B. Thompson, III
Assistant Secretary

DECLARATION OF EMERGENCY

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

Mobile Sources (LAC 33:III.Chapter 19) (AQ78E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 30:2011, the assistant secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because of the requirements of the Clean Air Act Amendments (CAAA) of 1990 and the impact of the amendments upon the six-parish, Baton Rouge ozone-nonattainment area. It is necessary for the DEQ to adopt this emergency rule, LAC 33:III.Chapter 19, to comply with requirements of the CAAA of 1990 regarding a mandated enhanced vehicle Inspection and Maintenance (I/M) Program and to support the reasonable further progress (RFP) plan revision of the State Implementation Plan (SIP).

The immediate impact is to comply with the requirements of the CAAA of 1990 and to support the RFP SIP revisions

submitted to the Environmental Protection Agency.

This emergency rule is effective on July 13, 1994 and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 19. Mobile Sources

Subchapter A. Control of Emissions from Motor Vehicles

§1901. Purpose

It is the purpose of this regulation to establish and implement a program for the control and abatement of motor vehicle emissions from internal combustion engines which meets the emission performance standard as specified in 40 CFR Part 51.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1903. Applicability

A. The provisions of this Subchapter shall apply to all motor vehicles, as defined in LAC 33:III.1905, which are:

1. registered or required to be registered in East Baton Rouge Parish, including leased vehicles whose registration or titling is in the name of an equity owner other than the lessee or user and vehicles available for rent;
2. stationed in East Baton Rouge Parish and which display official license plates of the state, federal government, or any political subdivision; or
3. operated on federal installations located within East Baton Rouge Parish.

B. On-road testing provisions of this Subchapter shall apply to motor vehicles as defined in LAC 33:III.1905 which are:

1. registered or required to be registered in the parishes of Ascension, Iberville, Livingston, Pointe Coupee, and West Baton Rouge; or
2. stationed in the parishes of Ascension, Iberville, Livingston, Pointe Coupee, and West Baton Rouge and which display official license plates of the state, federal government, or any political subdivision.

C. Fleet vehicles primarily operated in East Baton Rouge Parish are subject to all of the provisions of this Subchapter.

D. Provisions of this Subchapter shall apply to owners or operators of subject vehicles or to any private corporation, person, business, or entity engaged in providing emissions testing services, diagnosing motor vehicle malfunctions, or repairing motor vehicles.

E. The provisions of this regulation shall become effective on or after January 1, 1995.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1905. Definitions

The terms used in this Subchapter are defined in LAC 33:III.111 of these regulations except as defined as follows:

Algorithm—a mathematical rule or procedure for solving

a problem or implementing a process as described in 40 CFR Part 51, Subpart S and 40 CFR Part 85, Subpart W, as applicable.

Certificate of Emissions Control—a serially-numbered, counterfeit-resistant document issued in the form of a vehicle inspection report (VIR) for each motor vehicle inspection.

Consumer Price Index (CPI)—the CPI for any calendar year is the average of the CPI for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending August 31 of each calendar year.

Contractor—any person, business firm, partnership, or corporation with whom the administrative authority may execute an agreement providing for the construction, purchase, lease, renovation, equipment, maintenance, personnel, management, or operations of the official vehicle emissions testing program.

Enhanced Inspection/Maintenance (I/M)—a series of enhanced motor vehicle emissions tests performed at a centralized test-only stations to identify cars emitting exhaust levels above acceptable standards. Vehicles are brought into compliance through maintenance (M) and repair.

EPA—United States Environmental Protection Agency.

Exhaust Gas Emissions Standards—the maximum allowable levels of carbon monoxide, hydrocarbons, and oxides of nitrogen appropriate for the age and type of vehicle tested. Refer to the Appendix.

Fleet—ten or more motor vehicles that are owned, operated, leased, or otherwise controlled by a person.

Light-duty Truck I (LDTI)—any van or truck with a gross vehicle weight rating (GVWR) less than or equal to 6,000 pounds.

Light-duty Truck II (LDTII)—any van or truck with a gross vehicle weight rating greater than or equal to 6,001 pounds and less than or equal to 8,500 pounds.

Light-duty Truck III (LDTIII)—any van or truck with a gross vehicle weight rating greater than or equal to 8,501 pounds and less than or equal to 10,000 pounds.

Light-duty Vehicle (LDV)—any vehicle classified as a passenger car or automobile.

Motor Vehicle or Vehicle—any automobile or truck classified as a Light-duty Vehicle, Light-duty Truck I, Light-duty Truck II, or Light-duty Truck III that is required to be registered, except:

- a. motorcycles or mopeds;
- b. mobile equipment such as road rollers, road graders, farm tractors, unlicensed vehicles on which power shovels are mounted, or such other construction equipment customarily used only on construction sites and that is not practical for the transportation of persons or property upon the highways;
- c. fire engines in regular service with a municipal, volunteer, or industrial fire fighting department;
- d. vehicles licensed as "antique" pursuant to R.S. 47:463.8;
- e. trucks or vehicles licensed with a declared gross vehicle weight rating greater than or equal to 10,001 pounds;
- f. vehicles powered only by electricity;
- g. vehicles legally classified as golf carts and off-road vehicles; and
- h. vehicles displaying apportioned license plates.

New Motor Vehicle—any vehicle being registered for the first time.

On-board Diagnostic Systems (OBD)—systems designed to identify emissions related problems on the vehicle. Required for 1995 and newer model year vehicles.

On-road Testing—the measurement of hydrocarbon (HC) or carbon monoxide (CO) or oxides of nitrogen (NO_x) or carbon dioxide (CO₂) emissions on any road or roadside in the nonattainment area of the I/M program area.

Operator—any individual in control of a vehicle.

Owner—any person holding legal title to or a lease interest in a motor vehicle.

Person—any individual, firm, partnership, joint venture, association, corporation, social club, fraternal organization, estate, trust, receiver, syndicate, any parish, city, municipality, district (for air pollution control or otherwise), or other political subdivision, or any group or combination acting as a unit, and the plural as well as the singular unit.

Recognized Repair Technician—one professionally engaged in vehicle repair, employed by a going concern whose purpose is vehicle repair or one who possesses nationally recognized certification for emission-related diagnosis and repair.

Remote Sensing Device—equipment consisting of an infrared beam emitter, a detector, and a microprocessor designed to measure on-road vehicle emissions.

Reregistration—the process of titling a previously titled vehicle.

Test or Testing—the use of analyzers and diagnostic equipment as appropriate and the application of techniques, methods, policies, and procedures established or approved by the administrative authority for the purpose of comparing pollutant emission levels in vehicle exhaust to emission standards.

Testing Center—a facility established by the administrative authority or the contractor for the purpose of conducting vehicle emissions tests and inspections.

Year—a calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1907. General Provisions

A. Except as otherwise noted in this Subchapter, all owners of new motor vehicles covered by this Subchapter shall receive initial testing, meet standards of performance, and receive a certificate of compliance, waiver, or adjustment prior to the second registration renewal of the motor vehicle.

1. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially (every two years) for all motor vehicles subject to requirements of this Subchapter;

2. Vehicles must receive a valid certificate of compliance, waiver, or adjustment not more than 90 days prior to the vehicle registration renewal date.

3. Any person owning or operating any motor vehicle that is exempt from registration renewal, and is otherwise subject to this Subchapter, shall obtain a biennial certificate of compliance, waiver, or adjustment for the vehicle. Such

vehicles shall receive their initial tests in May, according to the following schedule:

a. odd numbered model year vehicles shall test in odd numbered years; and

b. even numbered model year vehicles shall test in even numbered years.

B. Previously titled motor vehicles must receive a valid certificate of compliance, waiver, or adjustment not more than 90 days prior to reregistration unless otherwise provided in Subsection C of this Section. Thereafter, a certificate of compliance, waiver, or adjustment shall be obtained biennially for all motor vehicles subject to the requirements of this Subchapter.

C. Previously titled motor vehicles purchased from a licensed motor vehicle dealer which are no older than four model years, as determined by the manufacturer's model year designation, shall not require a certificate of compliance, waiver, or adjustment in accordance with Subsection B.1 of this Section provided that:

1. the motor vehicle dealer, at the time of purchase, provides the purchaser with a written statement that states the emissions equipment on the motor vehicle was operating in accordance with the manufacturer's and distributor's warranty at the time of resale; and

2. the purchaser submits the vehicle and the aforementioned dealer statement to a testing center for verification.

D. Vehicles shall become subject to on-road testing provisions of this Subchapter upon reregistration or upon registration renewal, whichever occurs first with the exception of previously titled vehicles registered in accordance with Subsection C of this Section. Vehicles subject to the provisions of Subsection C of this Section shall become subject to on-road testing requirements one year after reregistration.

E. A valid registration sticker must be displayed at all times on the vehicle license plate as a visible demonstration of compliance with this Subchapter.

F. The administrative authority shall notify owners that subject vehicles must comply with this Subchapter prior to registration renewal. Written notification shall be mailed approximately 90 days prior to the vehicle registration date to allow time for compliance. Failure of an owner to receive a notification for testing shall in no way abridge or eliminate the responsibility of the owner to comply with the provisions of this Subchapter.

G. In order to receive a certificate of compliance, waiver, or adjustment, an owner or operator must demonstrate compliance with any emissions-related manufacturer's recall for the vehicle requiring a certificate of emissions control.

H. For purposes other than compliance with this Subchapter, a vehicle may be tested at any testing center provided that the applicable test fee is paid.

I. Upon reasonable notice by the administrative authority, an emissions testing center shall make available the use of its inspection facility and equipment for the purpose of verifying the results of an inspection or reinspection of a motor vehicle.

J. For the purpose of program evaluation, the administrative authority shall conduct transient loaded testing, or the equivalent, on 0.1 percent of the East Baton Rouge

Parish vehicles subject to I/M program requirements. This evaluation testing shall be in addition to any biennially-required testing.

K. All federal facilities located in East Baton Rouge Parish shall provide the administrative authority with an initial complete listing of all employee-owned or leased vehicles, as well as all agency-owned or operated vehicles, not later than October 1, 1995. Thereafter, all federal facilities shall annually report any changes in this list for the previous calendar year and demonstrate compliance with requirements of this Subchapter not later than April 1 of each year. Presentation of proof of a valid certificate of compliance, waiver, or adjustment (or any other form of proof approved by the administrative authority) shall constitute demonstration of compliance.

L. Motor vehicles previously registered in a state other than Louisiana must comply with the testing provisions of this Subchapter prior to registering in East Baton Rouge Parish.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1909. Standards of Performance

A. Exhaust Emission Standards. Vehicles shall be tested for exhaust gas emission levels of carbon monoxide, carbon dioxide, hydrocarbons, and oxides of nitrogen or particulates in the case of diesels. To pass the test and receive a certificate of compliance, a vehicle's emissions must not exceed the standards set in the Appendix based on registration information for vehicle type, model year, and weight.

B. Evaporative System Integrity Standards

1. Purge Test. To pass an evaporative system purge test as described in LAC 33:III.1911.B.3, a vehicle must demonstrate a purge flow during the IM240 test of greater than one liter.

2. Pressure Test. To pass an evaporative system pressure test as described in LAC 33:III.1911.B.4, a vehicle must show a pressure drop of less than 2 inches of water two minutes after the system is pressured to 14 inches of water.

C. Fast-pass/Fast-fail Procedures. Fast-pass or fast-fail procedures may be used as approved by the administrative authority*.

D. Rejection for Cause. If the vehicle, vehicle contents, load, passengers, or operator causes or has the appearance of causing an unsafe testing condition at the center, the test shall not be performed until the condition is determined to be safe or is corrected. The vehicle may be rejected from the center without receiving a test. Such conditions include, but are not limited to, leaking or missing exhaust systems.

E. Visual Inspection. To pass the visual emissions device check, which includes checks for the catalytic converter and fuel inlet restrictor as applicable, such devices shall be present, in operable condition, properly connected, and the proper type for the certified vehicle configuration.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1911. Emissions Testing Procedures

Subject vehicles shall be tested according to test methods found in 40 CFR Part 51, Subpart S, as applicable; 40 CFR Part 85, Subpart W, as applicable; or as otherwise noted in this Subchapter.

A. Testing Procedure - All Vehicles

1. Tests shall be performed without emissions related repair or adjustment at the testing center prior to the test, except that the gas cap shall be checked to ensure that it is properly, but not excessively, tightened and shall be tightened if necessary.

2. The vehicle owner or operator shall have access to the test area such that observation of the entire official inspection process on the vehicle is permitted. Such access may be limited, but shall in no way prevent full observation.

3. An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test conditions, unsafe conditions, or fast-pass/fast-fail algorithms.

4. Tests involving measurements shall be performed with program-approved equipment that has been calibrated according to the quality control procedures established by the administrative authority*.

5. Dual-fuel vehicles must be tested while operating on gasoline. Dual-fuel vehicles must operate on gasoline for a minimum of 10 minutes prior to testing.

6. In the inspection process, vehicles that have been altered from their original certified configuration are to be tested according to the standards for the chassis model year. The standards for the engine model year shall be used if the engine model is newer than the chassis.

B. Testing Procedure - By Vehicle Type

1. Transient IM240 Test Procedure (1981 and newer model year vehicles without full-time four-wheel drive)

a. The test shall measure vehicle exhaust gas emissions in grams per mile for carbon monoxide, carbon dioxide, hydrocarbons, and oxides of nitrogen.

b. The transient emissions test shall consist of 240 seconds of mass emissions measurement using a Constant Volume Sampler while the vehicle is driven through a computer-monitored driving cycle on a dynamometer with inertial weight settings appropriate for the weight of the vehicle.

c. The vehicle shall be tested according to the IM240 transient driving cycle or alternatives to IM240 testing approved the administrative authority*.

2. Steady State Test Procedure (1980 and older model year vehicles and 1981 and newer model year vehicles equipped with full-time four-wheel drive)

a. The test shall measure vehicle exhaust gas emissions in terms of concentrations for carbon monoxide, carbon dioxide, and hydrocarbons.

b. With the engine operating at idle speed and transmission in neutral or park, as may be specified by the administrative authority, the sampling probe of the gas analytical system shall be inserted into the tail pipe.

c. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority*.

3. Evaporative System Purge Test Procedure. All vehicles subject to IM240 transient emissions test are subject to the evaporative system purge test.

a. The purge test procedure shall consist of measuring the total purge flow (in standard liters) occurring in the vehicle's evaporative system during the transient dynamometer emissions test specified in Subsection B.1.b of this Section.

b. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority*.

4. Evaporative System Pressure Test Procedure (all vehicles equipped with charcoal canisters)

a. Test equipment shall be connected to the fuel tank canister hose at the canister end. The gas cap shall be checked to ensure that it is properly, but not excessively, tightened and shall be tightened if necessary.

b. The system shall be pressurized to 14 ± 0.5 inches of water without exceeding 26 inches of water system pressure.

c. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the administrative authority*.

5. Steady State Driving Cycle for Diesels Up to 10,000 Pounds GVWR. All diesel vehicles tested will have the opacity of exhaust measured. Vehicles with a GVWR of 4,000 pounds or less will be tested on a dynamometer at a roll speed of 30 mph and a brake horsepower of 6.4 - 8.4 hp. Vehicles with GVWR between 4,000 and 10,000 pounds will be tested on a dynamometer at a roll speed of 50 mph and a brake horsepower of 30 ± 2 hp.

C. Retesting Procedure - All Vehicles

1. Vehicles which fail any portion of the emissions test shall have necessary maintenance and repairs performed as a prerequisite for a retest. Vehicles which are brought to a testing center within 30 days after failing a test will be given one free retest. If any subsequent inspections are required for that test cycle a new initial test fee (which includes one free retest) shall be charged.

2. A vehicle repair form (VRF) completed following the most recent emissions test shall be a prerequisite for a retest or subsequent initial emissions inspection. It shall indicate which repairs were actually performed, as well as any technician recommended repairs that were not performed, and an identification of the facility that performed the repairs. Identification on the VRF shall include, at a minimum, the technician's signature and printed name, the printed repair facility's name (if applicable), federal employer identification number (EIN) and Louisiana state tax number, the repair date, and business telephone number.

3. Repairs of failed vehicles by persons who are not recognized repair technicians are permitted; however, the cost of such repairs shall not be counted toward a certificate of waiver for any 1980 or newer model vehicle.

4. Following repair, vehicles shall be retested for any portion of the inspection that was failed on the previous test to determine if repairs were effective. To the extent that repair to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested.

a. An exhaust emissions test shall be required after

evaporative system repairs.

b. A vehicle which fails one or more of the standards for HC, CO, or NO_x must pass all three standards on the retest.

5. Available emissions control system warranty repairs and tampering related repairs must be obtained in accordance with LAC 33:III.1917.B.3 and 4.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1913. On-road Testing

A. On-road testing is to be part of the emissions testing program as a complement to testing otherwise required in LAC 33:III.1911.

B. On-road testing may be performed using remote sensing equipment or other equipment approved by the administrative authority or roadside pullovers including tailpipe emission testing. Vehicles shall be measured for exhaust gas emission levels of carbon monoxide, hydrocarbons, and oxides of nitrogen. The established exhaust emission standards can be found in the Appendix.

C. Subject vehicles which are found to exceed the established on-road emission standards for the same pollutant on two different occurrences within 90 days shall be considered to appear to be exceeding the applicable exhaust emission standards. The owners or operators of such vehicles shall be notified of this apparent failure and required to present the vehicle for initial testing at an official testing center, and payment thereof, within 30 days. Such vehicles shall be required to comply with the provisions of this Subchapter. Vehicles not subject to biennial testing shall not become subject to biennial testing as a result of on-road testing requirements.

D. Vehicles which received a certificate of waiver or adjustment shall be exempt from the requirements of this Section for the duration of that certificate.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1915. Certificate of Emissions Control

A serially-numbered, counterfeit-resistant document in the form of a vehicle inspection report (VIR) shall be issued for each motor vehicle inspection. The VIR shall contain at a minimum: vehicle information, inspection results, an emissions validation tab, and a vehicle repair form (VRF).

A. Certificate Types. Depending on the results of each inspection, the certificate of emissions control shall be completed in one of four ways:

1. C - certificate of compliance
2. F - certificate of failure
3. W - certificate of waiver
4. A - certificate of adjustment

B. Vehicle Repair Form (VRF). The vehicle repair form (VRF) shall be completed by the vehicle emissions repair technician and returned to the test personnel at the time of the retest. The owner or operator shall present the vehicle repair

form with the appropriate repair documentation attached, including the receipts, work orders, etc., for repairs including parts and labor based on the flat rate manual.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1917. Certificates of Waiver

A. The administrative authority may allow the issuance of a certificate of waiver. A certificate of waiver is a type of compliance that allows a motorist to comply with program requirements without meeting the applicable test standards, as long as prescribed criteria are met. Certificates of waiver must be issued by the administrative authority or its representative.

B. The following criteria establish the basis for a certificate of waiver:

1. A certificate of waiver may be issued after a vehicle has failed a retest. No such certificate of waiver may be granted unless qualified repairs have been completed. The validity of a certificate of waiver shall not exceed the period of inspection frequency or two years, whichever is less.

2. Emissions-related repairs performed prior to an initial test shall not be eligible to apply toward a certificate of waiver.

3. Any available emissions control system warranty coverage shall be used to obtain needed repairs before repair expenditures can be counted toward the cost limits in Subsection B.7 of this Section. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived.

4. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in Subsection B.7 of this Section. The administrative authority may exempt tampering-related repairs if the owner or operator can verify that the part in question or one similar to it is no longer available or safe.

5. Repairs shall be appropriate to the cause of the test failure. A visual check shall be made where appropriate to determine if repairs were actually performed. Receipts shall be submitted to the administrative authority for review to verify that qualifying repairs were performed.

6. Repairs shall be performed by a recognized repair technician in order to qualify for a certificate of waiver. The administrative authority may allow repairs performed by nontechnicians (e.g., owners) to apply toward the waiver limit for pre-1980 model year vehicles.

7. The owner or operator shall make qualified repairs in the amount of at least \$450 directly related to the cause of the test failure in order to qualify for a certificate of waiver. The administrative authority shall adjust the \$450 minimum expenditure each January 1, by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the CPI for 1989.

8. The administrative authority may establish lower minimum expenditure limits if a program is implemented to

scrap vehicles that do not meet standards after the lower expenditure is 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 20:

§1919. Compliance via Diagnostic Inspection

Vehicles subject to a transient IM240 emissions test may be issued a certificate of adjustment if, after failing a retest on emissions, a complete, documented physical and functional diagnosis and inspection performed by the administrative authority or its representative shows that no additional emission-related repairs which may produce further reductions in exhaust emissions are needed. Motorists requesting a diagnostic inspection shall be required to pay all costs of the inspection in full.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1921. Vehicles Unavailable for Testing

Vehicles registered in the East Baton Rouge program area that are stationed outside the program area and cannot be easily returned for inspection when registration renewal is due must present proof of such stationing (military orders, school registration, or other acceptable documentation) to the administrative authority. If the vehicle is stationed in another enhanced inspection/maintenance (I/M) program area, a reciprocal emissions test is required such that the vehicle complies with the requirements of that area. If the vehicle is not stationed in a program area, the owner may apply for a time extension for renewal. The administrative authority may grant such a time extension, to expire 30 days after the vehicle's return to the program area.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1923. Emissions Repair Technician Training

A. The administrative authority shall ensure that adequate repair technician training is available, either through private or public facilities.

B. The training available shall consist of, at a minimum:

1. diagnosis and repair of malfunctions in computer controlled, closed-loop vehicles;

2. application of emissions control theory and diagnostic data to the diagnosis and repair of failures to the transient emissions test and evaporative system functional checks;

3. utilization of diagnostic information on systematic or repeated failures observed in the transient emissions test and evaporative system functional checks;

4. general training on the subsystems related to engine emissions control.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1925. Certified Inspection Personnel Requirements

A. Training

1. For the purpose of compliance with this Subchapter, all inspectors engaged in the emissions testing of motor vehicles must successfully complete a certification training course, approved by the administrative authority. At a minimum, inspector training shall include the following:

- a. the air pollution problem, its causes and effects;
- b. the purpose, function, and goal of the inspection program;
- c. inspection regulations and procedures;
- d. technical details of the test procedures and the rationale for their design;
- e. emissions control device function, configuration, and inspection;
- f. test equipment operation, calibration, and maintenance;
- g. quality control procedures and their purpose;
- h. public relations; and
- i. safety and health issues related to the inspection process.

2. Inspector certificates shall be valid for no more than two years, at which time a refresher training and testing shall be required prior to renewal.

B. Identification. Whenever inspection personnel are on duty and in contact with the public, they shall wear identification tags visible to the public or other identification approved by the administrative authority. It shall be a violation of this Subchapter for a noncertified person to conduct inspections.

C. Inspector Performance

1. Contractors shall be held responsible for the performance of inspectors in the course of duty.

2. At no time during the emissions inspection sequence shall an inspector attempt or allow adjustments to be performed on the vehicle being inspected except for gas cap adjustments necessary to perform purge and pressure 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 20:

§1927. Test Fees and Surcharges

A. A fee shall be collected by the administrative authority or its representative for the initial test. If the vehicle fails the initial test, one free retest shall be provided, in accordance with LAC 33.III.1911.C.1. If any subsequent inspections are required, a new initial test fee (which includes one free retest) shall be charged.

B. All state administrative portions of the vehicle test fee shall be paid to the administrative authority on a monthly basis no later than the 15th day of each month.

C. The administrative authority shall have the right to audit the contractor's records and procedures to substantiate that the contractor is properly collecting and accounting for test fees and surcharges.

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

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1929. Quality Assurance/Quality Control

A. Quality Assurance. An ongoing quality assurance program shall be implemented by the administrative authority to determine whether procedures are being followed, whether equipment is measuring accurately, and whether other problems might exist which would impede program performance.

1. Performance Audits. Performance audits shall be conducted on a regular basis to determine whether inspectors are correctly performing all tests and other required functions. Performance audits may be either overt or covert.

2. Record Audits. Station and inspector records shall be reviewed or screened at least monthly to assess station performance and identify problems that may indicate potential fraud or incompetence.

3. Equipment Audits. During overt site visits, auditors shall conduct quality control evaluations of the required test equipment.

4. Auditor Training. Auditors shall be formally trained and knowledgeable in:

- a. the use of analyzers;
- b. program rules and regulations;
- c. the basics of air pollution control;
- d. basic principles of motor vehicle engine repair, related to emission performance;
- e. emissions control systems;
- f. evidence gathering;
- g. state administrative procedures laws;
- h. quality assurance practices; and
- i. covert audit procedures.

B. Quality Control

1. Quality control measures shall be implemented by the contractor to ensure that emission measurement equipment is calibrated and maintained properly and that inspection, calibration records, and control charts are accurately created and maintained.

2. All test equipment shall, at a minimum, be calibrated according to the procedures and schedules specified in 40 CFR Part 51, Subpart S; 40 CFR Part 85, Subpart W; and as recommended by the manufacturer.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1931. Public Information and Consumer Protection

A. Consumer Protection

1. Motorists shall be provided with software generated interpretive diagnostic information based on the particular portions of the test that were failed.

2. The administrative authority shall institute procedures and mechanisms to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the I/M program. This shall include mechanisms for protecting whistle blowers and for following up on complaints. It shall also include a program to assist owners in obtaining warranty covered repairs for eligible vehicles that fail a test.

3. The administrative authority shall institute a challenge mechanism by which a vehicle owner can contest the results of an inspection. The challenge mechanism shall, at a minimum, allow for the availability of a lane at the inspection facility for motorists to challenge their test results. If a challenge test is failed, the test will count as either a retest for that vehicle or the test fee will be charged. No test fee will be charged if the test is passed, and a certificate of compliance shall be issued.

B. Performance Summary. The administrative authority shall provide to the public at the time of initial failure a summary of the performance of local repair facilities that have repaired vehicles for retest. The summary shall include statistics on the number of vehicles submitted for a retest after repair by the repair facility, the percentage passing on first retest, the percentage requiring more than one repair/retest trip before passing, and the percentage receiving a certificate of waiver or adjustment, and any other information which would assist a motorist in evaluating repair options.

C. Performance Reports. The administrative authority shall annually provide feedback including statistical and qualitative information to individual repair facilities regarding their success in repairing failed vehicles.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1933. Enforcement

A. General

1. No person shall violate the provisions of this Subchapter.

2. A person shall not knowingly:

a. make any false material statement, representation, or certification in, or omit material information from or knowingly alter, conceal, or fail to file or maintain any document required pursuant to this Subchapter;

b. fail to notify or report as required under this Subchapter;

c. falsify, tamper with, render inaccurate, or fail to install any pollution control device or methods required to be maintained or repaired under this Subchapter;

d. temporarily adjust or repair a vehicle solely for the purpose of passing an emissions inspection and readjust the vehicle following the passing of an emissions test.

3. Failure to comply with the provisions of this Subchapter shall constitute violation of the Louisiana Environmental Quality Act (the Act) and shall be subject to any enforcement action provided thereunder.

4. Penalties for violations shall be assessed in accordance with the Act and any specific provisions in this Subchapter.

5. Compliance with all provisions of this Subchapter must be demonstrated before a violation is considered resolved.

B. Enforcement Against Vehicle Owners or Operators

1. Upon notice of noncompliance with the emission inspection requirements of this Subchapter by the administrative authority, the secretary of the Department of Public Safety and Corrections shall deny, suspend, or revoke

the registration of the vehicle and impound or cancel the vehicle's license plate. Registration shall be denied until such time as compliance is demonstrated and any penalties due are paid in full.

2. Any person who fails to obtain the necessary certificate of compliance, waiver, or adjustment within the time limits provided in this Subchapter shall be assessed a civil penalty of a minimum of \$50 and not more than \$2500.

C. Enforcement Against Contractor and Inspectors

1. Substantial penalties or retainage shall be imposed on the first offense for violations that directly affect emission reduction benefits.

2. Neither the contractor nor any employee of the contractor shall be engaged in the business of manufacturing, selling, maintaining, or repairing vehicles.

3. Actions on behalf of a certified emissions inspector which lead to a loss of emissions reductions shall result in an immediate six-month suspension of the inspector, or a retainage penalty equivalent to the inspector's salary for that period shall be imposed.

4. In addition to any other penalties imposed, violations of any testing provision or the improper issuance of a certificate under this Subchapter shall require retraining or recertification of the inspector as deemed necessary by the administrative authority.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

§1935. Miscellaneous

If any provision of this Subchapter or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or application of any other part of this Subchapter. To this end, each provision of this Subchapter, and the various applications thereof, are declared to be severable.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

APPENDIX

Emission Standards

A. IM240 Emission Standards

1. Two Ways to Pass Standards. If the corrected, composite emission rate calculated during testing exceed standards for any pollutant, additional analysis of test results shall look at the second phase of the driving cycle separately. Phase 2 shall include second 94 through second 239. Second-by-second emission rates in grams, and composite emission rates in grams per mile for Phase 2 and for the entire test shall be recorded for each pollutant. For any given pollutant, if the composite emission level is below the composite standard or if the Phase 2 grams per mile emission level is below the applicable Phase 2 standard, then the vehicle shall pass the test for that pollutant.

2. Start-up Standards. Start-up standards shall be used during the first full two-year testing cycle beginning at

program implementation. Tier 1 standards are recommended for 1996 and newer vehicles and may be used for 1994 and newer vehicles certified to Tier 1 standards. The following exhaust emission standards, in grams per mile, are recommended:

a. Light-duty Vehicles (any passenger car or automobile):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com- posite	Phase 2	Com- posite	Phase 2	Com- posite	Phase 2
1994+ Tier 1	0.80	0.50	15.0	12.0	2.0	(Reserved)
1991- 1995+	1.20	0.75	20.0	16.0	2.5	(Reserved)
1983- 1995	2.00	1.25	30.0	24.0	3.0	(Reserved)
1981- 1982	2.00	1.25	60.0	48.0	3.0	(Reserved)

b. Light-duty Trucks I (less than or equal to 6000 pounds GVWR):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com- posite	Phase 2	Com- posite	Phase 2	Com- posite	Phase 2
1994+ Tier 1						
(≤3750 LVW)	0.80	0.50	20.0	12.0	2.0	(Reserved)
(>3750 LVW)	1.00	0.63	25.0	16.0	2.5	(Reserved)
1991-1995	2.00	1.50	60.0	48.0	3.0	(Reserved)
1988-1990	2.00	1.50	80.0	64.0	3.5	(Reserved)
1984-1987	2.50	1.50	80.0	64.0	7.0	(Reserved)
1981-1983	5.00	3.50	100.0	80.0	7.0	(Reserved)

c. Light-duty Trucks II (greater than or equal to 6,001 and less than or equal to 8,500 pounds GVWR):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com- posite	Phase 2	Com- posite	Phase 2	Com- posite	Phase 2
1994+ Tier 1						
(≤5750 LVW)	1.00	0.63	20.0	16.0	2.5	(Reserved)
(>5750 LVW)	2.40	1.50	60.0	48.0	4.0	(Reserved)
1991-1995	2.00	1.50	60.0	48.0	4.5	(Reserved)
1988-1990	2.00	1.50	80.0	64.0	5.0	(Reserved)
1984-1987	2.50	1.50	80.0	64.0	7.0	(Reserved)
1981-1983	5.00	3.50	100.0	80.0	7.0	(Reserved)

d. Light-duty Trucks III (greater than or equal to 8,501 and less than or equal to 10,000 pounds GVWR):

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Com- posite	Phase 2	Com- posite	Phase 2	Com- posite	Phase 2
1991+	3.00	2.00	70.0	56.0	4.5	(Reserved)
1988- 1990	4.00	2.50	90.0	72.0	5.0	(Reserved)
1984- 1987	4.00	2.50	90.0	72.0	7.0	(Reserved)
1981- 1983	8.00	5.00	130.0	104.0	7.0	(Reserved)

3. Final Standards (Reserved)

B. Idle Test Cutpoints for Bar90

1. Start-up Standards

a. Light-duty Vehicles (any passenger car or automobile):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1980	400	4
1978-1979	500	5.5
1975-1977	700	7
1971-1974	800	8
1970	1000	9
1968-1969	1200	10

b. Light-duty Trucks I (less than or equal to 6000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1980	400	4
1978-1979	500	5.5
1975-1977	700	7
1971-1974	800	8
1970	1000	9
1968-1969	1200	10

c. Light-duty Trucks II (greater than or equal to 6,001 and less than or equal to 8,500 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1980	400	4
1978-1979	500	5.5
1975-1977	700	7
1971-1974	800	8
1970	1000	9
1968-1969	1200	10

d. Light-duty Trucks III (greater than or equal to 8,501 and less than or equal to 10,000 pounds GVWR):

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
1980	500	5
1979	600	6
1974-1978	900	7
1970-1973	1100	9
1968-1969	1200	10

2. Final Standards (Reserved)

C. On-road Testing

Remote sensing identification standards:

Model Years	Hydrocarbons (ppm)	Carbon Monoxide (%)
All Vehicles	1000	10

D. Diesel Testing. During the vehicles start-up phase of testing an average opacity of greater than 40 percent shall fail the test.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:

Chapter 2. Rules and Regulations for the Fee System of the Air Quality Control Programs
 §223. Fee Schedule Listing

[See Prior Text in Fee Schedule Listing Table]

ADDITIONAL PERMIT FEES AND ADVF FEES		
Fee Number	Fee Description	Amount
	*** [See Prior Text]	
2500 *NOTE 15*	Biennial Mobile Sources Enhanced Inspection Maintenance Fee	
	Biennial enhanced inspection maintenance motor vehicle emissions test fee beginning January 1, 1995 through 1996	10.00
	Biennial enhanced inspection maintenance motor vehicle emissions test fee beginning in 1997	20.00

Explanatory Notes for Fee Schedule

[See Prior Text in Note 1 through 14]

NOTE 15 A biennial emissions inspection fee for vehicles that are registered or required to be registered in any affected parish with a population of greater than two hundred thousand. A program emission inspection fee not to exceed \$10 per vehicle inspected may be imposed if Intermodal Surface Transportation Efficiency Act funds are available for the purpose; to the extent such funds are not available a fee not to exceed \$20 per vehicle inspected may be imposed.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:613 (September 1988), LR 15:735 (September 1989), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, LR 17:1205 (December, 1991), repromulgated LR 18:31 (January 1992), amended LR 18:706 (July 1992), LR 18:1256 (November 1992), LR 20:

James B. Thompson, III
 Assistant Secretary

DECLARATION OF EMERGENCY

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

Case Management Services for Optional Targeted Population Groups and Waiver Programs

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing, has adopted the following emergency rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and shall be in effect for 120 days or until adoption of the rule through the promulgation process of the Administrative Procedure Act.

The Bureau of Health Services Finances currently funds case management services to the following specific population groups:

- 1) developmentally disabled persons;
- 2) infants and toddlers with special needs;
- 3) high-risk pregnant women (limited to the metropolitan New Orleans area);
- 4) persons infected with HIV;
- 5) seriously mentally ill individuals;
- 6) participants in waivers which include case management as a service; and
- 7) ventilator-assisted children.

The bureau has adopted rules governing case management services as the needs of the population groups for these services became apparent and in accordance with available funding. There has been a tremendous growth in interest on behalf of the public in providing these services to the Medicaid populations. In addition, as these services have been implemented and governed under specific program regulations over the past five years, the department now seeks to enhance the quality of these services to the optimal level while strengthening administrative oversight. The department has determined that the protection of the public health and welfare requires adoption of the following emergency rule to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions. In addition this emergency rule establishes enhanced regulations governing consumer eligibility and provider enrollment, participation and reimbursement. It is anticipated that adoption of this emergency rule will promote cost effectiveness, provider accountability and strengthen the department's management of case management programs thereby decreasing total expenditures for state fiscal year 1995 by approximately \$1,688,007.

Emergency Rule

Effective July 22, 1994 the Bureau of Health Services Financing hereby repeals all previously adopted rules on case management services and adopts the following standards for participation, standards for payment and general provisions. This emergency rule applies to case management services provided either to targeted population groups or to

participants in a waiver program(s) in which case management services are included. This emergency rule governs case management services for the following specific population groups:

- 1) developmentally disabled persons;
- 2) infants and toddlers with special needs;
- 3) high-risk pregnant women;
- 4) persons infected with HIV;
- 5) seriously mentally ill individuals; and
- 6) participants in waiver program(s) in which case management services are included. Services for ventilator-assisted children is terminated as a specific targeted group but these children may be eligible under the other groups listed above. All case management providers must follow the policies and procedures included in this emergency rule as well as in the Department of Health and Hospitals *Case Management Provider Manual*. Under this rule the term "case management" has the same meaning as the term "family service coordination". Case management services must be delivered in accordance with all applicable federal and state laws and regulations.

I. Standards of Participation

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

A. Provider Enrollment Requirements

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

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

All applicant case management agencies must meet the requirements 1-14 listed below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

1. possesses a current license to provide case management/service coordination in Louisiana or written proof of application for licensure;

2. has demonstrated direct experience in successfully serving the target population and demonstrated knowledge of available community services and methods for accessing them including all of the following:

a. has established linkages with the resources available in the consumer's community;

b. maintains a current resource file of medical, mental health, social, financial assistance, vocational, educational, housing and other support services available to the target population;

c. demonstrates knowledge of the eligibility requirements and application procedures of federal, state, and local government assistance programs which are applicable to consumers served;

d. employs a sufficient number of qualified case manager and supervisory staff who meet the skills, knowledge, abilities, education, training, supervision, staff coverage and maximum caseload size requirements described in Section C below;

3. demonstrates administrative capacity to provide all core elements of case management and insure effective case management services to the target population in accordance with licensing and Medicaid requirements;

4. assures that all case manager staff is employed (not contracted) at least 20 hours per week;

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

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

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

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

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

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

11. if currently enrolled as a Medicaid case management provider, assures that case managers will not provide case management and Medicaid reimbursed direct services to the

same consumer(s). If enrolled as a case management provider after July 20, 1994, assure that the agency will not provide case management and other Medicaid reimbursed direct services to the same consumers;

12. has a financial management system that is capable of:

a. adequately funding required qualified staff and services;

b. providing documentation of services and costs;

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

d. submitting reports in the manner specified by Medicaid;

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

14. maintains a written policy for transition and closure;

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

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

16. demonstrates the capacity to participate and agrees to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Regional Office on a monthly basis via electronic mail (applicable to seriously mentally ill, infants and toddlers with special needs, and developmentally disabled children 3 years and older and adults only). CAMIS and electronic mail software will be provided without charge to the provider. Participation in CAMIS is in addition to participation in the LANSER data collection system of the Department of Education required by ChildNet.

17. has demonstrated successful experience with delivery and/or coordination of services for pregnant women (applicable to high risk pregnant women only);

18. agrees to maintain regular contact, share information with and coordinate services with the consumer's primary care physician or clinic (applicable to HIV infected, high risk pregnant women and infants and toddlers with special needs only);

An enrolled case management provider must re-enroll requesting a separate Medicaid provider number and is subject to the above described enrollment requirements and procedures in order to provide case management services to an additional target population. In addition, a provider must re-enroll if three or more staff are providing case management services in another region unless these services are provided in parishes contiguous to the region where the agency is licensed. Applicants will be subject to review by DHH to determine ability and capacity to serve the target population and a site visit to verify compliance with all provider enrollment requirements prior to a decision by the Medicaid Program on enrollment as a case management provider or at any time subsequent to enrollment. Applicant provider agencies who wish to serve HIV infected individuals must satisfactorily complete a 1 day training provided by the Delta Region AIDS Education and Training Center.

If the applicant agency is determined to be eligible for enrollment, the agency will be notified in writing by the Medicaid Program of the effective date of enrollment and the unique Medicaid case management provider number for each

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

II. Standards of Payment

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

A. Staff Coverage

All case managers must be employed by the case management agency a minimum average of 20 hours per week and work at least 50 percent of the time during normal business hours. Contracting of case manager staff is prohibited. Case management supervisors must be employed a minimum of eight hours per week for each full time case manager (four hours a week for each part-time case manager) they supervise and maintain on-site office hours at least 50 percent of the time. If the supervisor is not a full-time employee, the supervisor must be continuously available by telephone or beeper during normal business hours. The provider agency must ensure that case management services are available 24 hours a day, seven days a week.

B. Staff Qualifications

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

1. Education and Experience for Case Managers. All case managers hired or promoted on or after July 22, 1994 must meet all of the following minimum qualifications for education and experience:

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

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

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

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

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

High Risk Pregnant Women

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

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

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

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

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

Developmentally Disabled Waiver Participants

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

Acquired Head Injury

Each Medicaid enrolled provider must ensure that all case managers providing services to waiver participants with acquired head injuries meet the following qualifications:

a. a master's degree in social work from a social work program accredited by the Council on Social Work Education; AND one year of paid experience in a public or private social services agency; or

b. a licensed registered nurse; AND one year of paid experience working with individuals with head injuries; or

c. a masters degree in rehabilitation therapy from an accredited institution; AND one year of paid experience working with persons with head injuries.

2. Education and Experience for Case Management Supervisors. A case management supervisor hired or promoted on or after July 22, 1994 or any other individual supervising case managers must meet all of the education and experience requirements listed below. Staff supervising case management for high risk pregnant women and individuals with acquired head injuries must meet the same qualifications as the case managers for these populations:

a. a master's degree in psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited institution; AND two

years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management; one year of this experience must be in providing direct services to the target population to be served; or

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

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

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

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

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

High Risk Pregnant Women

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

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

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

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

d. a registered dietician; AND three years of paid post-bachelor's degree experience in a human service-related field

providing direct consumer services or case management; two years of this experience must be in providing direct services to pregnant women.

Acquired Head Injury

Each Medicaid enrolled provider must ensure that all case management supervisory staff for waiver participants with acquired head injuries meet the same qualifications as case managers for this population.

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

a. **knowledge:**

- (1). community resources;
- (2). medical terminology;
- (3). case management principles and practices;
- (4). consumer rights;
- (5). state and federal laws for public assistance;

b. **skills:**

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

c. **abilities:**

- (1). preparing service plans;
- (2). coordinating delivery of services;
- (3). advocating for the consumer;
- (4). communicating both orally and in writing;
- (5). establishing and maintaining cooperative working relationships;
- (6). maintaining accurate and concise records;
- (7). assessing medical and social aspects of each case and formulating service plans accordingly;
- (8). problem solving;
- (9). remaining objective while accepting the consumer's lifestyle;

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

Training for New Case Managers

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

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

A minimum of eight hours of the orientation training must cover orientation on the target population including but not limited to specific service needs and resources.

In addition to the required 16 hours of orientation, all new employees with no documented required experience and training must receive a minimum of 16 hours of training during the first 90 calendar days of employment which is related to the target population served and specific knowledge, skills, and techniques necessary to provide case management to the target population. This training must be provided by an individual with demonstrated knowledge of the training topics and the target population. This training must include the following at a minimum:

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

Annual Training

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

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

- y. stress and time management;
- z. legal issues.

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

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

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

Training-Infants and Toddlers with Special Needs

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

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

Training-Acquired Head Injured Waiver Participants

Specific training for case management staff, students, and volunteers working with consumers with head injuries must be approved by the Head Injury Foundation and must meet the following requirements:

- a. At least eight hours of the 16 hours of orientation provided to new staff within the first five days of employment must consist of population-specific training approved by the Head Injury Foundation.
- b. The minimum 16 hours of training required in the first 90 days of employment of new staff must consist of

population-specific training approved by the Head Injury Foundation.

c. A minimum of 12 hours of the required additional 24 hours of annual training for new staff must be population-specific training approved by the Head Injury Foundation.

d. During each subsequent year, a minimum of 24 of the required 40 hours of training shall consist of population-specific training approved by the Head Injury Foundation.

Mandatory Medicaid Training

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

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

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

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

- a. individual, face to face sessions with staff to review cases, assess performance and give feedback;
- b. group face to face sessions with all case management staff to problem solve, provide feedback and support to case managers;
- c. sessions in which the supervisor accompanies a case manager to meet with consumers. The supervisor assesses, teaches, and gives feedback regarding the case managers' performance related to the particular consumer.

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

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

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

D. Caseload Size Standards

Each full-time case manager is subject to a maximum caseload of consumers as indicated below:

Infants and toddlers with special needs	35
Developmentally disabled (age 3 and older)	45
High risk pregnant women	60
HIV infected	45
Seriously mentally ill	25
Fragile elderly	40
Acquired head injured	20

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

E. Consumer Eligibility Requirements for Targeted Populations. Case management providers must ensure that consumers of Medicaid funded targeted case management services are Medicaid eligible and meet the additional eligibility requirements specific to the targeted or waiver population group. The eligibility requirements for each targeted and waiver group are listed below. With respect to infants and toddlers with special needs, this determination is made through the Multidisciplinary Evaluation (MDE) process and is not the responsibility of the case management/family service coordination agency.

1. Infants and Toddlers with Special Needs

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

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

- (1). cognitive development;
- (2). physical development, including vision and hearing eligibility must be based on a documented diagnosis made by a licensed medical doctor (vision) or a licensed medical doctor or licensed audiologist (hearing);
- (3). communication development;
- (4). social or emotional development;
- (5). adaptive development.

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

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

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

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

c. which is likely to continue indefinitely; AND

d. which results in substantial functional limitations in three or more of the following areas of major life activity:

- (1). self care;
- (2). understanding and use of language;
- (3). learning;
- (4). mobility;
- (5). self-direction;
- (6). capacity for independent living;

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

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

3. High-risk Pregnant Women

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

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

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

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

4. HIV Infected

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

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

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

5. Seriously Mentally Ill

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

(1). Age: 18 years or older; and

(2). Diagnosis: severe non-organic mental illnesses including, but not limited to schizophrenia, schizoaffective disorders, mood disorders, and severe personality disorders,

that substantially interfere with a person's ability to carry out such primary aspects of daily living as self-care, household management, interpersonal relationships and work or school; and

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

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

b. *Children/youth (under age 18) with emotional/behavioral disorders* is defined as follows: behavioral or emotional responses so different from appropriate age, cultural, or ethnic norms that they adversely affect performance (including academic, social, vocational or personal skills); a disability which is more than a temporary, expected response to stressful events in the environment, is consistently exhibited in two different settings and persists despite individualized intervention within general education and other settings. Emotional and behavioral disorders can co-exist with other disabilities. The following criteria are being established for children/youth with emotional/behavioral disorders and requires that (1), (2), and (3) described below, be met before someone can be described as having an emotional/behavioral disorder. For the purposes of eligibility for Medicaid case management services, there must be a diagnosis as contained in section (2) below, and, a disability as described in section (3) and, a duration of impairment or patterns of inappropriate behavior which has persisted for at least three months and will persist for at least a year.

(1). Age: under age 18; and

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

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

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

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

(d). have a DSM-III-R (or successor) diagnosis indicating a severe mental disorder, such as, but not limited to psychosis, schizophrenia, major affective disorders, reactive attachment disorder of infancy or early childhood (non-organic failure to thrive) or severe conduct disorder. This category does not include children/youth who are socially maladjusted unless it is determined that they also meet the criteria for emotional/behavior disorders; and

(3). Disability: there is evidence of severe, disruptive and/or incapacitating functional limitations of behavior characterized by at least 2 of the following: Inability to routinely exhibit appropriate behavior under normal circumstances; tendency to develop physical symptoms or fears associated with personal or school problems; inability to learn or work that cannot be explained by intellectual, sensory, or health factors; inability to build or maintain satisfactory interpersonal relationships with peers and adults; a general pervasive mood of unhappiness or depression; conduct characterized by lack of behavioral control or adherence to social norms which is secondary to an emotional disorder. If all other criteria are met, then "conduct disorders" are eligible; and

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

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

7. Acquired Head Injured. The consumer must be a participant identified as the occupant of a slot in Head Injury Maintenance waiver.

F. Description of Case Management Services/Provider Responsibilities. The definition of case management adopted by the department is "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." Targeted and waiver case management services consists of intake, assessment, service planning, linkage/service coordination, monitoring/follow-up, reassessment, and transition/closure. The department utilizes a broker model of case management in which consumers are referred to other agencies for specific services they need. These services are determined by professional assessment of the consumer's needs and provided according to a comprehensive individualized written service plan. All case management services must be provided by qualified staff as defined in Section A above. The provider must ensure that there is no duplication of payment, that there

is only one case manager for each eligible consumer and that the consumer is not receiving other targeted case management services from any other provider.

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

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

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

b. determine if the consumer is currently Medicaid eligible;

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

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

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

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

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

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

f. obtain signed release form(s) from the consumer/guardian. Intake activities performed solely to determine eligibility and need for targeted case management are not billable to Medicaid (unless they are performed as part of the case management assessment process and the consumer meets the eligibility requirements for the target or waiver population.

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

Intake for Infants and Toddlers with Special Needs

Intake for infants and toddlers with special needs is defined as a comprehensive interagency multidisciplinary, ongoing process which ensures that eligible children are appropriately identified, located, referred and evaluated for early intervention services. The child search coordinator in the local education agency is the single point of entry into ChildNet. The child search coordinator is responsible for completion of the following intake procedures:

a. Upon receipt of a referral, the child search coordinator must assist the family in identifying and choosing an enrolled family service coordinator provider to assist in the MDE process. Referrals received directly by a family service coordination provider must be immediately referred to the appropriate child search coordinator.

b. The child search coordinator must provide the family freedom of choice to select an enrolled family service coordination provider, and advise the family of the right to change family service coordinator provider agencies, family service coordinators and other service providers.

c. The child search coordinator must advise the family of their procedural safeguards and provide them with a copy of their rights under ChildNet.

Intake for High Risk Pregnant Women

Intake must include a standardized medical risk assessment described in Section E3 above.

Intake for Seriously Mentally Ill

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

Intake for Frail Elderly

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

Intake for Acquired Head Injured

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

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

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

must be obtained from the consumer/guardian to secure appropriate services.

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

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

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

Assessment for Infants and Toddlers with Special Needs

The child search coordinator is responsible for ensuring all the components of the assessment/ multidisciplinary evaluation (MDE) are fulfilled within the required timeliness. In addition, the child search coordinator must coordinate with the family service coordinator to ensure the development of the initial Individualized Family Service Plan within the required 45 day timelines. The case manager/family service coordinator is responsible for assisting the family through the multidisciplinary evaluation process including the following:

a. informing the family of the steps involved in the MDE process, explaining their rights and procedural safeguards and securing their participation;

b. reviewing relevant medical information and prior evaluations;

c. coordinating the performance of identified or necessary evaluations and KIDMED screenings and immunizations and an examination by a licensed physician to ensure timely completion of the MDE and IFSP;

d. identifying or coordinating the identification of the family's concerns, priorities and resources;

The MDE must include the following:

a. a review of pertinent records related to the child's current health status and medical history;

b. results of a KIDMED screening or documented referral for KIDMED screening;

c. an evaluation of the child's level of functioning in each of the following developmental areas: cognitive

development, physical development, including vision and hearing (by a licensed physician or hearing by a licensed audiologist); communication development; social or emotional development; and adaptive development;

d. an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and

e. with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;

f. be signed and dated by multidisciplinary team participants.

Assessment of Developmentally Disabled Children Three Years and Older and Adults

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

b. **CAMIS Initial Assessment.**

Assessment for Seriously Mentally Ill

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

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

b. **CAMIS Initial Assessment.**

Assessment for High Risk Pregnant Women

Assessment of pregnant women is a multidisciplinary evaluation of the high risk patient to identify factors that may adversely affect health status. Professionals from nursing, nutrition and social work disciplines working as a team must each evaluate the consumer and family needs through interactions and interviews. Each professional assessment must reflect the identified areas for counseling, intervention and follow up services. The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the department. Assessments must be completed with 14 calendar days after the risk assessment is

completed or receipt of the referral. There may be extenuating circumstances with certain patients that may hinder compliance with this time frame for assessment.

The case manager is responsible for assisting the family through the multidisciplinary evaluation process including the following:

a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multidisciplinary team staffing;

b. identifying or coordinating the identification of the consumer's concerns, priorities and resources.

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

Assessment for Frail Elderly

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

Assessment for Acquired Head Injured

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

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

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

a. statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;

b. one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;

c. specification of action steps, services or interventions planned, and payment mechanism, if applicable;

d. assignment of individual responsibility for goal accomplishment; and

e. time frames for completion or review.

The service plan must document frequency and/or intensity of contacts between the consumer and case manager, service providers and others, the persons to be contacted and

whether the visits must be to the consumer's place of residence or to another location, such as a service delivery site. Each service plan must be written and kept in the consumer's record. The assessment and service plan must be completed prior to providing ongoing case management services.

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

Service Planning for Infants and Toddlers with Special Needs

The family service coordinator's responsibilities in the Individual Family Service Plan (IFSP) must include all of the following:

- a. convening a meeting to develop the IFSP within 45 calendar days of referral;
- b. attending the IFSP meeting;
- c. ensuring that the IFSP meeting is conducted in settings and at times that are convenient to families; in the native language of the family or other mode of communication used by the family; meeting arrangements must be made with, and written notice provided to the family and other participants;
- d. ensuring the following participants provide input and have the opportunity to attend the initial IFSP meeting: the parents; person(s) directly involved in conducting the evaluations; and informal and formal service providers, as appropriate;
- e. facilitating adherence to applicable Medicaid and Part H federal regulations and the ChildNet State Plan concerning the IFSP process.

Service Planning for Developmentally Disabled Children Three Years and Older and Adults

A standardized service plan form must be completed with the consumer/guardian, signed by the consumer/guardian and case manager, and approved by the case manager's supervisor.

Service Planning/Multidisciplinary Team Staffing for High Risk Pregnant Women

Following the completion of the medical risk assessment, home visit, professional and case management assessments, a multidisciplinary team staffing and completion of the service plan must take place within 30 days of the intake screening of each high risk pregnant women. The consumer may be restaffed one time during the pregnancy or postpartum period as necessary to maintain a viable comprehensive service plan.

Service Planning for Seriously Mentally Ill

A standardized service plan form must be completed with the consumer/guardian, signed by the consumer/guardian and case manager, and approved by the case manager's supervisor. The service plan must be submitted with the required assessment documentation to the Regional Office within prescribed timelines in accordance with Office of Mental Health procedures.

Service Planning for Frail Elderly

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

Service Planning for Acquired Head Injured

Service planning procedures for waiver services are

described in the appropriate *Waiver Provider Manual*.

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

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

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

The consumer must be contacted within the first 10 working days after the initial service plan is completed to assure appropriateness and adequacy of service delivery. The case manager must visit each consumer/guardian at least monthly in the consumer's home as part of the linkage and monitoring/follow-up process, or more frequently as dictated by the service plan or determined by the needs of the consumer/guardian. If the consumer refuses home visits or there are genuine concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer and documented in the case record.

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

Through this activity, the case manager must determine whether or not the service plan is effective in meeting the

consumer's needs and identify when changes in the consumer's status occur, necessitating a revision in the service plan. Reassessment is required when a major change in status of the consumer/guardian occurs.

Monitoring of services provided includes the following:

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

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

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

Follow-Up/Monitoring for High Risk Pregnant Women

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

Follow-Up/Monitoring for Seriously Mentally Ill

The case manager must have at least weekly face-to-face or telephone contact with the consumer/guardian.

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

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

At least every six months, a complete review of the service plan must be done to assure that goals and services are appropriate to the consumer's needs identified in the assessment/reassessment process. A home-based reassessment

must be done on at least an annual basis unless this is not the consumer's preference or there are genuine concerns regarding safety. If the reassessment cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record.

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

Reassessment for Infants and Toddlers with Special Needs

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

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

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

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

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

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

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

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

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

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

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

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

Procedures for Changing Family Service Coordination Providers-Infants and Toddlers with Special Needs

If a family chooses to change family service coordination agencies or a change is necessary for any reason, the following procedures will be followed:

- a. The family will be referred back to the child search coordinator. This referral can be made by the family, the current family service coordinator, or other service providers.
- b. The child search coordinator will provide the family with the official list of family service coordination providers and the freedom of choice form.
- c. The child search coordinator will review the family's rights under ChildNet with the family including the right to change family service coordinators or agencies.
- d. The child search coordinator or the family, if the family chooses, will notify the newly selected agency.
- e. The child search coordinator will notify the old agency at termination.
- f. After receiving written informed paternal consent, the new agency will request records from the previous agency. The previous agency will make these records available within 10 working days of receipt of the request.

III. GENERAL PROVISIONS

A. Documentation

The provider must keep sufficient records to document compliance with licensing and Medicaid case management requirements for the target population served and provision of case management services. Separate case management records must be maintained on each consumer which fully document services for which Medicaid payments have been made. The provider must maintain sufficient documentation to enable the Medicaid Program to verify that each charge is due and proper prior to payment. The provider must make available all

records which the Medicaid Program finds necessary to determine compliance with any federal or state law, rule, or regulation promulgated by the Medicaid Program, DHH or DHHS or other applicable state agency.

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

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

Service Logs

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

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

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

Progress Notes

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

1. be clear as to who was contacted and what case management activity took place for each recorded time of case management. It must be clear why that time period was billed;

2. record activities and actions taken, by whom, progress made and indicate how goals in the service plan are progressing;

3. document delivery of each service identified on the service plan;

4. record any changes in the consumer's medical condition, behavior or home situation which may indicate a need for a reassessment and service plan change;

5. be legible, as well as legibly signed, including functional title, and fully dated; and

6. be complete, entered in the record preferably weekly but at least monthly and signed by the primary case manager.

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

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

Providers must make all necessary consumer records available to appropriate state and federal personnel at all reasonable times. Providers must always safeguard the confidentiality of consumer information. Under no circumstances should providers allow case management staff to take records home. The case management agency can release confidential information only under the following conditions:

1. by court order; OR

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

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

B. Reimbursement

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

other support services." This definition encompasses assisting eligible consumers in gaining access to needed services including:

a. identifying services needed;

b. linking consumer with the most appropriate providers of services; and

c. monitoring to ensure needed services are received.

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

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

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

(1). A flat fee reimbursement will be established for billing for the initial assessment/service planning period for a specific targeted or waiver case management population (excluding High Risk Pregnant Women). Only one completed written initial assessment/service plan may be billed for an eligible consumer. Reimbursement for the initial completed written assessment and service plan will be subject to prior authorization by DHH.

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

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

a. High Risk Pregnant Women

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

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

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

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

A technical amendment (Public Law 100-617) in 1988 specifies that the Medicaid Program is not required to pay for case management services that are furnished to consumers without charge. This is in keeping with Medicaid's longstanding position as the payer of last resort. With the statutory exceptions of case management services included in Individualized Education Programs (IEP'S) or Individualized Family Service Plans (IFSP's) and services furnished through Title V public health agencies, payment for case management services cannot be made when another third party payer is liable, nor may payments be made for services for which no payment liability is incurred.

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

1. outreach, case finding or marketing;
2. counseling or any form of therapeutic intervention;
3. developing general community or placement resources or a community resource directory;
4. legislative or general advocacy;
5. professional evaluations;
6. training;
7. providing transportation;
8. telephone calls to a busy number, leaving messages, faxing or mailing information;

9. travel to a consumer's home for a home visit, and the consumer is not at home so that the visit cannot be held but a note is left;

10. "Housekeeping" activities in connection with recordkeeping; (Recording a contact in the case record at the time service is provided is billable.)

11. in-service training, supervision;

12. discharge planning;

Exception: 10 days (30 days for developmentally disabled waiver participant) before discharge from an inpatient facility to assist the consumer in the transition from inpatient to outpatient status, and in arranging appropriate services and 10 days after institutionalization or hospitalization to arrange for closure of community services;

13. intake screening which takes place prior to and is separate from assessment;

14. general administrative, supervisory or clerical activities;

15. recordkeeping;

16. general interagency coordination;

17. program planning;

18. medicaid billing or communications with Medicaid Program;

19. running errands for family (shopping, picking up medication, etc.);

20. accompanying family to appointments or recreational activities, waiting for appointments with family;

21. lengthy interaction to "get acquainted", "provide support" or "hand holding";

22. activities performed by agency staff other than the primary case manager;

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

Disapproval of these revisions by the Health Care Financing Administration will automatically cancel the provisions of this emergency rule and current policy will remain in effect.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this emergency rule and providing information on a public hearing on this matter. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing at said hearing. Copies of this rule are available at Parish Medicaid Offices for review by interested parties.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

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

Certified Medicaid Enrollment Centers

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

The Bureau of Health Services Financing established Certified Medicaid Enrollment Centers under the Medicaid State Plan in July 1992 and provided for cost reimbursement to these centers by emergency rulemaking on December 22, 1992 (*Louisiana Register*, Volume 19, Number 1, pages 20-21) and a subsequent rule on May 20, 1993 as published in the *Louisiana Register*, Volume 19, Number 5, page 644. This initiative permitted the bureau to enroll qualified providers and public agencies as Enrollment Centers (EC) to provide intake and outreach services to prospective eligibles and to provide training in eligibility regulations and requirements for the enrollment center staff. The bureau has established a training and certification program for prospective enrollment centers and developed the Enrollment Center (EC) Handbook which outlines major administrative and regulatory provisions governing outreach and intake under Medicaid. The bureau requires completion of a written contract specifying the responsibilities of the DHH, BHSF and the institution/agency serving as the enrollment center. In order to ensure compliance with all federal regulations and thereby avoid the potential of any federal sanction of loss of federal financial participation, the bureau has adopted the following emergency rule.

Emergency Rule

Effective July 1, 1994, the Bureau of Health Services Financing has adopted the following requirements which govern the operation of certified Medicaid enrollment centers Title XIX of the Social Security Act. The enrollment center is responsible for ensuring that all of its employees maintain compliance with the following requirements.

A. In order to participate as an enrollment center, the provider applicant must meet one of the following definitions:

1. an institutional provider of Medicaid services who has not been suspended from participation in the program (e.g. hospitals, long term care facilities);
2. a state program which provides health or social services to the local population which is staffed by state employees (e.g. parish health units, mental health units);
3. a federally funded program which provides health or social services to the local population authorized under Section 329, 330 and 340 of the Public Health Services Act (e.g. FQHC).
4. a parish, state, or federally sponsored program providing services to the community; has designated business

offices with established hours of operation; a full-time staff who works with the general public performing the normal duties of the program; and the endorsement and recommendation of local government for certification training (e.g. Headstart);

5. a private program providing health or social services to an identifiable segment of the local community; designated business offices with established hours of operation; a full-time staff who works with the general public in performing the duties of the program; and the endorsement and recommendation of local government for certification training (e.g. V.O.A., Catholic Community Services, etc.).

6. home health agencies or other agencies/programs specifically approved by the Bureau of Health Services Financing.

B. Required Training/Certification. Prospective enrollment center managers are required to attend a management orientation after which referred qualified personnel of the center must successfully complete the Medicaid Enrollment Center Representative Training. The representative training includes an overview of the Medicaid programs available, the eligibility factors considered in the application process, pre-certification responsibilities, and a detailed review of the comprehensive application process.

C. Contractual Agreement: DHH, BHSF and Enrollment Center. The rights and responsibilities of DHH, BHSF and the enrollment centers are outlined in the contractual agreement between the BHSF and the chief administrative officer/administrator of the institution or agency seeking to become an enrollment center.

1. The Department of Health and Hospitals, Bureau of Health Services Financing, is responsible for the administration and oversight of the enrollment center's participation in the Medicaid Program. The Department of Health and Hospitals agrees to assist enrollment centers in the following ways:

a. Each potential enrollment center is furnished with an application, the Standards for Participation and a contractual agreement. Management staff is required to attend an Enrollment Center Management Orientation.

b. BHSF provides for Medicaid Enrollment Center Representative Training for approved EC staff after the EC has completed the requirements in Item 1.a. above.

c. BHSF awards the EC representative a certification letter, certificate and an EC Handbook to those approved EC staff who have attended EC representative training and passed the required test.

d. DHH/BHSF will monitor EC operations to assure quality service is being offered to applicants.

e. DHH/BHSF will review, approve and refer for processing and payment all complete invoices.

2. Contractual Agreement/Responsibilities. The enrollment center director's signature on the contractual agreement serves as the facility's agreement to abide by all policies and that to the best of his/her knowledge, the information contained on the application form is true, accurate and complete. Once the contractual agreement between the DHH and the enrollment center is completed, the enrollment center:

a. becomes an agent of the state and in so doing the enrollment center or any of its employees is prohibited from acting on behalf of the client or serving in the role of the client's authorized representative;

b. understands that their facility must qualify based upon the Standards for Participation. The administrator or management level designee must sign the contractual agreement and must attend the Enrollment Center Management Orientation;

c. agrees to adhere to the applicable regulations of the secretary and the Department of Health and Hospitals, Bureau of Health Services Financing. The enrollment center agrees to comply with all rules governing its participation as an enrollment center;

d. understands that it has the right to terminate its agreement for any reason in writing with 30 days prior notice to DHH. The enrollment center understands that DHH has the right to terminate the agreement with 10 days notice for violation of any of the stated agreements and responsibilities as set forth in the agreement. The agency reserves the right to institute a 30-day period of corrective action in coordination with the enrollment center;

e. agrees to maintain such records as outlined in the Enrollment Center Handbook. These records are to be provided upon request by the State Medicaid Agency, the Secretary of the Department of Health and Hospitals, the Medicaid Fraud Control Unit, or the U.S. Department of Health and Human Services. These records must be maintained for a minimum of three years from the date of service;

f. understands that, as a condition of enrollment and participation, it is responsible for assuring and monitoring confidentiality (including, but not limited to, the fact that the intake or enrollment unit of the provider entity is prohibited under the rules of confidentiality from sharing any information pertaining to the recipient with any other unit of the provider entity), nondiscrimination and quality standards and adhering to federal and state requirements relative thereto;

g. must undergo periodic monitoring by state and/or federal officials without prior notice and agree that state and/or federal officials will have access to the premises to inspect and evaluate work being performed. The enrollment center understands that decertification may result if, according to the determination of the state of federal agency, nonconformance with policies is found;

h. agrees that only persons who have successfully completed certification training with a passing grade will be allowed to complete Medicaid applications and agrees that any change in certified staff will be reported to DHH within 10 days to be recorded in the enrollment center profile. The enrollment center shall keep a copy on file of each employee certification document. Replacement staff must be trained and certified prior to completing applications;

i. understands that participation is required in follow-up training provided as specified by BHSF;

j. understands that the Medicaid enrollment center handbook will be furnished to the facility at no cost. The enrollment center will be responsible for maintaining and updating this handbook as revisions are issued;

k. understands that application packets will be distributed by DHH. It is the responsibility of the enrollment center to maintain an applications transmittal log. Transmittal logs will be used for submitting applications, invoicing, monitoring and review purposes;

1. must forward all completed applications to DHH within established time frames, as stated by the enrollment center in the contractual agreement. All applications must be accompanied with a transmittal log for proper documentation;

m. must adhere to applicable state and federal laws and regulations.

3. Either party may terminate the contract in writing. Thirty days prior notice is required for an enrollment center to terminate its contract with the Department of Health and Hospitals while 10 days prior notice is required for the department to terminate its contract with the enrollment center.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule and providing information on a public hearing on this matter. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing at said hearing.

Rose V. Forrest
Secretary

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

The Medicaid Program previously reimbursed hospitals serving a disproportionate share of low income patients via 12 pools with payments based on Medicaid days. This payment methodology was implemented effective February 1, 1994 by means of emergency rulemaking to comply with the Health Care Financing Administration's policy on Section 1923 (Adjustment in Payments for Inpatient Hospital Services Furnished by Disproportionate Share Hospitals) of the Social Security Act (42 U.S.C. Section 1396r-4). In addition, disproportionate share payments for indigent care based on free care days were made by establishment of a payment methodology which reimbursed providers for indigent care days based on a Medicaid per diem equivalent amount.

The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) amended Section 1923 of the Social Security Act by establishing individual hospital disproportionate share payment limits. To comply with these new provisions, the bureau is implementing the following changes to its methodologies for qualification and calculation of disproportionate share payments: require that each qualifying disproportionate share hospital has a Medicaid inpatient utilization rate of not less than 1 percent, limit publicly owned or operated hospitals to 100 percent of uncompensated cost, and establish a transition year (State Fiscal Year 1994-95) in which public hospitals meeting specified criteria may not exceed 200 percent of uncompensated cost.

Implementation of this emergency rule will not decrease or increase expenditures as disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Emergency Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends its methodologies for qualification and calculation of disproportionate share payments for inpatient hospital services for Medicaid days and indigent care days effective for dates of service on or after July 1, 1994. Below are the following revised methodologies as modified in the State Plan, Attachment 4.19-A Items 1, 14 and 16 - Methodology for Disproportionate Share Adjustments.

Disproportionate Share Payments - Qualifying Criteria for a Disproportionate Share Hospital

In addition to the qualification criteria outlined in Item 1, D.1. a-d, effective on July 1, 1994, the qualifying disproportionate share hospital must have a Medicaid inpatient utilization rate of at least one percent.

Disproportionate Share Payments Methodology - Public Hospitals

The following six pools are eliminated from the DSH Medicaid Days Pools Payment Methodology:

- Public State-Operated Teaching Hospitals;
- Public State-Operated Non-teaching Hospitals;
- Public State-Operated Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals;
- Public State-Operated Non-Teaching Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals;
- Public Local Government Acute Hospitals; and
- Public Local Government Distinct Part Psychiatric Units/Freestanding Psychiatric Hospitals.

Also, Medicaid per diem equivalents shall no longer be paid for indigent days for public hospitals. DSH payments to individual publicly owned or operated hospitals (except for those hospitals qualifying for payments in the transition period as described below) will not exceed 100 percent of the costs incurred during the year of furnishing hospital services to individuals who are either Medicaid eligible or who have no health insurance or other source of third-party coverage net of any payments received from Medicaid other than disproportionate share payments or from uninsured patients. A transition period for services furnished from July 1, 1994 through June 30, 1995 is provided for high

disproportionate share public hospitals as defined below. Public "high disproportionate share hospitals" shall receive disproportionate share payments not to exceed 200 percent of costs incurred during the year for furnishing hospital services to individuals who are either Medicaid eligible or who have no health insurance or other source of third-party coverage for services provided, net of any payments received from Medicaid (other than disproportionate share payments) or from uninsured patients.

The governor must certify to the secretary of the Department of Health and Human Services that the hospitals' DSH payments in excess of 100 percent of the uncompensated costs are used for health services.

The department will issue instructions to affected providers with regard to procedures for payments made pursuant to this emergency rule.

Definitions

High Disproportionate Share Hospital—the hospital is owned or operated by state or local government entity; and the hospital:

- (1) has a Medicaid utilization rate that is at least one standard deviation above the mean Medicaid utilization rate for hospitals receiving Medicaid payments in the state. The statewide mean Medicaid utilization rate will be calculated based on the latest federal fiscal year in which all cost reports are audited and/or desk reviewed by the audit intermediary. Determination of hospitals qualifying under this provision as a high disproportionate share hospital will be made using this same audited and/or desk reviewed data; or
- (2) has the largest number of Medicaid inpatient days of any hospital in the state for the state fiscal year ending June 30, 1994.

Uncompensated Cost—costs incurred during the year of furnishing hospital services by the hospital to individuals who either are eligible for Medicaid under the state plan or have no health insurance or other source of third-party coverage, as provided in the amendments to Section 1923 of the Social Security Act in P.L.103-106, and net of Medicaid (excluding DSH) payments, and any payments from such uninsured individuals. For the purposes of this definition, determination of whether an individual is Medicaid eligible or uninsured shall be made for each hospital service provided.

Disproportionate share payments cumulative for all DSH payments under all DSH payment methodologies shall not exceed the federal disproportionate share state payment cap for each federal fiscal year.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule and providing information on a public hearing on this matter. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing at said hearing.

Rose V. Forrest
Secretary

DECLARATION OF EMERGENCY

Department of Insurance Commissioner of Insurance

Regulation 42—Group Self-Insurance Funds

In accordance with R.S. 49:953(B) of the Administrative Procedure Act and under the authority of R.S. 23:1193, the Commissioner of Insurance has adopted, as an emergency rule, the following amendment to repeal and reenact Section 9 of Regulation 42. This regulation provides for the regulation of group self-insurance funds for workers compensation.

Emergency rulemaking is necessary to expand the allowable investments of group self-insurance funds as soon as possible. Without emergency rule making, investment income will be lost on a daily basis because of the restrictive investment regulation currently in place.

This emergency rule is effective July 20, 1994 and shall remain in effect a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Regulation 42

Group Self-Insurance Funds

Section 1. - Section 8. ...

Section 9. Investments

A. Authorized Investments for Group Self-Insurance Funds

No security or other investment shall be eligible for purchase or acquisition under this Section unless it is interest bearing or interest accruing or dividend or income paying, is not then in default in any respect, and the fund is entitled to receive for its exclusive account and benefit, the interest or income accruing thereon.

Amounts not needed for current obligations may be invested by the board of trustees as provided in this Section, and not otherwise, in any or all of the following:

(1) deposits in federally insured banks or savings and loan associations located in Louisiana, provided that:

(a) such deposits are insured by the Federal Deposit Insurance Corporation, or

(b) such deposits are collateralized by direct obligations of the United States Government;

(2) bonds or securities not in default as to principal or interest, which are direct obligations of the United States Government or of any agency of the United States Government, without limitation;

(3) pass-through mortgage backed securities and collateralized mortgage obligations issued by the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration, without limitation, provided that such collateralized mortgage obligations have been rated one or two by the Securities Valuation Office of the National Association of Insurance Commissioners;

(4) direct obligations of the State of Louisiana, without limitation;

(5) repurchase agreements, without limitation, where the collateral for the agreement is a direct obligation of the United

States Government, provided that the repurchase agreement shall:

(a) be in writing;

(b) have a specific maturity date;

(c) adequately identify each security to which the agreement applies; and

(d) state that in the event of default by the party agreeing to repurchase the securities described in the agreement at the term contained in the agreement, title to the described securities shall pass immediately to the fund without recourse;

(6) corporate bonds, subject to the following limitations:

(a) the bonds must be rated 1 or 2 by the Securities Valuation Office of the National Association of Insurance Commissioners;

(b) except as provided in (6)(d) below, not more than 5 percent of a fund's assets may be invested in corporate bonds of any one issue or issuer;

(c) except as provided in (6)(d) below, not more than 50 percent of a fund's assets may be invested in corporate bonds of all types; and

(d) the 5 percent and 50 percent limitations specified in (6)(d) and (6)(c), respectively, above may be exceeded up to an additional 10 percent of a fund's assets in the event, and only in the event, of financial circumstances acceptable to the Department of Insurance, such as an increase in market value after initial purchase of a corporate bond; provided, however, that:

(i) the initial purchase of corporate bonds was within the limitations specified in (6)(b) and (6)(c) above, and

(ii) for the purpose of determining the financial condition of a fund, the Louisiana Department of Insurance will not include as assets of a fund corporate bonds which exceed 50 percent of a fund's total assets.

B. Rental Assets

A Group Self-Insurance Fund may not invest in rental assets, which for the purposes of this section, shall include but not be limited to the following:

(1) any item carried as an asset on the fund's balance sheet which is not, in fact, actually owned by the fund;

(2) any item carried as an asset on the fund's balance sheet, the ownership of which is subject to resolution, rescission, or revocation upon the fund's insolvency, receivership, bankruptcy, statutory supervision, rehabilitation, liquidation, or upon the occurrence of any other contingency;

(3) any item carried as an asset on the fund's balance sheet for which the fund pays a regular or periodic fee for the right to carry such items as an asset, whether or not such fee is characterized as a rental, a management fee, or a dividend not previously approved by the Commissioner of insurance, or other periodic payment for such right;

(4) any asset purchased by the fund on credit whereby the interest rate paid by the fund on its credit instrument is greater than the interest rate or yield generated by the purchased asset;

(5) any item carried by the fund as an asset on its balance sheet which is subject to a mortgage, lien, privilege, preference, pledge, charge, or other encumbrance which is not accurately reflected in the liability section of the fund's balance sheet.

(6) any asset received by the fund as a contribution to capital or surplus from any affiliate, holding company, or control person, or from any affiliate of any such affiliate, holding company, or control person, which meets any of the criteria set forth in Subparagraphs (1) through (5) above while in the hands of such contributing party, or at the moment of such contribution to capital, or thereafter. For the purposes of this regulation, affiliate and person shall have meanings as defined in Louisiana Revised Statutes 22:1002.

Section 10. - Section 19. ...

James H. "Jim" Brown
Commissioner of Insurance

DECLARATION OF EMERGENCY

Department of Insurance
Commissioner of Insurance

Regulation 48—Health Insurance Standardized Claim Forms

In accordance with R.S. 49:953(B) of the Administrative Procedure Act and under the authority of R.S. 22:3 and R.S. 22:11, the Louisiana Department of Insurance has adopted as an emergency rule an amendment to Section 5.C. of Regulation 48. The regulation provides for the standardization of claims forms used for billing health care services.

Emergency rulemaking is necessary due to the fact that certain medical services are currently being rendered without the capacity to receive payment for the services provided. This is due to conflicting rules promulgated by the Department of Insurance and the Office of Workers' Compensation of the Louisiana Department of Labor. Without this emergency rule medical treatments will be delayed for injured workers within the state of Louisiana.

This emergency rule is effective July 1, 1994 and shall remain in effect a maximum of 120 days or until a final rule is promulgated, whichever occurs first.

Regulation 48 Standardized Claims Forms

Section 1. - Section 4. ...

Section 5. Requirements for use of HCFA Form 1500

A. - B.2. ...

C. An issuer may not require a health care provider to use any other descriptor with a code or to furnish additional information with the initial submission of a HCFA Form 1500 except under the following circumstances:

1. - 3. ...

4. as otherwise required by federal regulation; or

5. as otherwise required by the Office of Workers' Compensation of the Louisiana Department of Labor.

D. ...

Section 6. - Section 8. ...

James H. "Jim" Brown
Commissioner of Insurance

DECLARATION OF EMERGENCY

Department of Labor
Office of Workers' Compensation

Hearing Rules (LAC 40:I.Chapter 21)

In accordance with the emergency provisions of R.S. 49:953(B) of the Louisiana Administrative Procedure Act, and under the authority of R.S. 23:1034.2 and R.S. 23:1203, the director of the Office of Workers' Compensation declares that the following rules and regulations are adopted to be effective August 1, 1994, for a period of 120 days or until the final rule is adopted, whichever occurs first.

The adoption and amendment of these rules is necessary because injured workers are having difficulty getting the Social Security Administration to restore full benefits when the workers' compensation payor takes the offset allowed by federal law. The changes will give the workers' compensation judges control of the process. The Office of Workers' Compensation is also having difficulty securing doctors to perform independent medical exams because the current rules makes them subject to subpoena and depositions. The new rules will provide that the doctors may satisfy their obligation by filing the appropriate reports.

Title 40

Labor and Employment

Part I. Workers' Compensation Administration

Chapter 21. Hearing Rules

§2113. Forms - Preparation and Adoption - Use

A. The Office of Workers' Compensation shall prepare and adopt such forms for use in matters before the Office of Workers' Compensation as it may deem necessary or advisable. Whenever Office of Workers' Compensation forms are prescribed and are applicable, they shall be used. A photo ready copy of any form may be procured upon request to any district office or the main office and may be reproduced by the parties as needed.

B. The following forms have been adopted by the Office of Workers' Compensation for use in matters before the Workers' Compensation Judges:

Form LDOL-WC-1004 - Request for Social Security Disability Information and Calculation of Reverse Offset

Form LDOL-WC-1005 - Motion and Order for Recognition of Right to Social Security Reverse Offset

Form LDOL-WC-1006 - Subpoena for Social Security Medical Information

Form LDOL-WC-1007 - Employer's Report of Occupational Injury or Disease

Form LDOL-WC-1008 - Disputed Claim Form

Form LDOL-WC-1011 - Settlement

Form LDOL-WC-1015 - Request for Independent Medical Examination

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1306, 1310, 1310.1, and 1310.3.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), Repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana

§2131. Conclusion of Informal Mediation Conference

* * *

C. Following a mediation conference at which agreement is reached on all issues in dispute, a report embodying the agreement shall be issued to the parties and the Workers' Compensation Judge within five days thereof. The report may require dismissal of the claim or the filing of an LDOL Form 1011 within a specified period of time. Failure to timely comply with the agreement will result in issuance of citations to all defendants. When all issues in dispute are resolved at the first mediation conference, the Office of Workers' Compensation shall waive payment of the \$30 filing fee.

D. Service of Process. If any proper party defendant is present or represented at the informal mediation conference, formal citation and service of process shall be made upon that defendant or its representative at that time. Citation and service of process shall be proper upon any representative of the defendant appearing at the mediation conference. The affidavit of the mediator in any subsequent proceeding shall be prima facie evidence that service has been made in accordance with this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, and 1310.3.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20:

§2133. Failure to Attend Informal Mediation Conference

If any party fails to attend in informal mediation conference after due notice, the Workers' Compensation Judge, upon report from the Workers' Compensation Mediator, shall fine the delinquent party an amount not to exceed \$500, which shall be immediately due and payable to the Office of Workers' Compensation Administrative Fund. In addition, the Workers' Compensation Judge may assess against the party failing to attend, costs and reasonable attorney's fees incurred by any other party in connection with the conference. If the plaintiff fails to appear after due notice, the Workers' Compensation Judge may dismiss the plaintiff's case without prejudice. Any appeal from penalties assessed under this section shall be made in writing to the Workers' Compensation Judge and shall be referred to the merits of the dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, and 1310.3.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20:

§2141. Discovery and Attendance of Witnesses

The hearing process shall be available to aid any party in pursuit of discovery and to compel attendance of witnesses or production of evidence. The Workers' Compensation Judge on his/her own motion at any conference may order the

production of discoverable material and make any other order facilitating discovery. Impeachment evidence shall not be discoverable material and a party shall not be required to disclose impeachment evidence, including but not limited to witnesses, documents, photographs or films. Copies of discovery documents are to be mailed to all parties by certified mail, return receipt requested, and shall not be filed in the record of the proceedings unless required pursuant to Louisiana Code of Civil Procedure Article 1474(C) or ordered by the Workers' Compensation Judge.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, 1310.14, and 1310.15.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20:

§2142. Independent Medical Examinations

A. Any party wishing to request an independent medical examination of the claimant pursuant to LSA-R.S. 23:1123 shall be required to make its request at or prior to the pre-trial conference. Requests for independent medical examinations made after that time shall be denied except for good cause shown.

B. Physicians performing independent medical exams pursuant to LSA-R.S. 23:1123 shall be required to prepare and send to the Medical Services Section of the Office of Workers' Compensation a verified or declared report of the examination within 30 days after its occurrence. If a verified or declared report is not submitted within the time set out in this subsection, the independent medical examiner shall be subject to subpoena by any party for either deposition or trial.

C. The verified or declared report submitted by the IME Doctor shall contain the following, where applicable:

1. a restatement of the medical and/or legal issues the physician was asked to address;

2. a detailed summary of the basis of the doctor's opinion, including but not limited to a listing of reports or documents reviewed in formulating that opinion;

3. the medical treatment and physical rehabilitative procedures which have already been rendered and the treatment, if any, which the physician recommends for the future, together with reasons for the recommendation;

4. any other conclusions required by the scope of the independent medical examination, together with reasons for the conclusion reached; and

5. the report itself must be signed by the physician (signature stamps will not be acceptable) and be verified or contain a written declaration, made under the penalty of perjury that the report is true. The substance of the following form of declaration shall be used: "I declare under penalty of perjury that I have examined this report, and to the best of my knowledge and belief, all statements contained herein are true, correct and complete."

D. If a physical examination of the employee was conducted, the verified report shall contain the following additional information:

1. a complete history of the claimant, including all previous relevant or contributory injuries with a detailed description of the present injury;

2. the complaints of the employee;

3. a complete listing of tests and diagnostic procedures conducted during the course of the examination; and

4. the physician's findings on examination, including but not limited to a description of the examination and any diagnostic tests and X-rays.

E. When the independent medical examiner's opinion is presented within 30 days in the format required in §2142.B, the independent medical examiner shall not be subject to subpoena or deposition either for discovery or at trial.

F. Objections to the independent medical examination shall be made on form LDOL-WC-1008, and shall be set for hearing before a Workers' Compensation Judge within 30 days of receipt. No mediation shall be scheduled on disputes arising under this subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20:

§2150. Subpoenas

A. Subpoenas issued in connection with any workers' compensation matter shall be served by the party requesting issuance of the subpoena, and may be served by certified mail return receipt requested or any other manner provided by law. Proof of service shall be the responsibility of the party requesting the subpoena. Once issued and served, a subpoena may be cancelled by the requesting party only after written notice to the opposing side. It shall be the responsibility of the requesting party to provide written notification of cancellation to all opposing parties as well as the person under subpoena.

B. In order to be enforceable, subpoenas for hearing shall be served seven days prior to the scheduled hearing date; subpoenas to compel attendance of medical experts shall be issued 14 days prior to hearing. Subpoenas for hearing may be issued after expiration of these time limits only by leave of court for good cause shown.

C. No official of the Social Security Administration shall be subject to subpoena under these rules.

D. When it is necessary for any party to request medical information concerning a worker from the Social Security Administration, that request shall be made on Form LDOL-WC-1006, and shall bear the signature of the worker evidencing the worker's consent to the release of this information, or shall have attached a certified copy of the worker's signature as shown on the disputed claim form LDOL-WC-1008, authorizing release of medical information.

E. No independent medical examiner who has filed a report in accordance with the provisions of Section 2142.E of these rules shall be subject to subpoena.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20:

§2157. Pretrial Procedure

* * *

D. Counsel who have prepared and submitted a pretrial statement to the Workers' Compensation Court shall attend the pretrial conference unless permission is granted by the court for substitute counsel to appear. Any substitute counsel permitted by the court to attend the conference shall be knowledgeable of all aspects of the case and shall possess the necessary authority to commit his client or associate regarding changes, stipulations, compromise/settlements, and trial dates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1, 1310.2, and 1310.6.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation, promulgated LR 16:297 (April 1990), repromulgated by Louisiana Department of Employment and Training, Office of Workers' Compensation Administration, LR 17:262 (March 1991), amended by Louisiana Department of Labor, Office of Workers' Compensation LR 19:350 (March, 1993), amended LR 20:

§2158. Trial of Disputed Issues; Continuance

A. Only those issues listed in the Pretrial Statements of the parties shall be litigated at trial. No new issues shall be raised except by order of the Workers' Compensation Judge for good cause shown.

B. No continuances shall be granted for the absence of a subpoenaed witness if the subpoena was not issued in accordance with Section 2150 of these rules.

C. No continuance will be entertained based upon a conflict in the schedule of any party or attorney if the conflict arose after the date of the pre-trial conference, except for good cause shown or in cases of criminal assignments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20:

§2159. Cases or Other Matters Under Advisement

A. A case or other matter shall be considered as having been fully submitted for decision immediately upon the conclusion of trial or hearing. All testimony, depositions, documents and evidence shall be introduced on or prior to the day of trial. In instances where the Workers' Compensation Court allows briefs, the parties shall be allowed a maximum of five working days within which to file concurrent briefs.

B. If a transcript of the testimony is ordered by the Workers' Compensation Court due to the appointment of a successor judge, it shall be filed within 30 days of the appointment, and the case or matter shall not be considered as fully submitted until the reporter files the transcript.

C. When necessary, for good cause shown, one extension may be granted by the Workers' Compensation Judge not to exceed an additional 15 days for filing of the transcript.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:

§2167. Social Security Offset

A. Where a request for reverse offset pursuant to LSA-R.S. 23:1225 is made in connection with a disputed claim, it shall be made by filing Form LDOL-WC-1008 or by responsive pleading. After a determination of permanent and total disability and calculation of the offset on form LDOL-WC-1004, the Workers' Compensation Judge shall issue an order on form LDOL-WC-1005(B) recognizing the entitlement to

the offset for social security benefits from the date of judicial demand, and setting the amount of the offset.

B. When workers' compensation benefits are being paid and are not disputed, a request for reverse offset pursuant to LSA-R.S. 23:1225 may be made by motion on form LDOL-WC-1005(A) or by letter, filed in the appropriate district office. When properly filed, the motion or letter requesting reverse offset shall be granted *ex parte* from date of filing. Upon receipt of such a request the district office shall request information concerning receipt of social security benefits from the social security administration and shall calculate the amount of any offset on form LDOL-WC-1004. No fee shall be charged in connection with a request made under this subsection.

C. No unilateral offset shall be recognized by this office after March 20, 1993.

D. Information concerning receipt of social security benefits and the amounts thereof shall be obtained only by personnel of the Office of Workers' Compensation on Form LDOL-WC-1004, which shall be properly executed by an official designated by the Social Security Administration.

E. No official of the Social Security Administration shall be subject to subpoena under these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20:

§2168. Financial and Compliance Hearings

A. Hearings on financial and compliance appeals held pursuant to LSA-R.S. 23:1171 shall be held in an expedited fashion within 15 days of the filing of the appeal, and shall be conducted in accordance with the provisions of the Administrative Procedure Act.

B. No suspensive appeal of a determination of the financial and compliance officer will be entertained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1.

HISTORICAL NOTE: Promulgated by the Louisiana Department of Labor, Office of Workers' Compensation, LR 20:

§2171. Reserved

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1310.1 and 1310.8.

HISTORICAL NOTE: Adopted by the Louisiana Department of Labor, Office of Workers' Compensation Administration, LR 19:350, amended LR 20:

Alvin J. Walsh
Director

DECLARATION OF EMERGENCY

Department of Labor Office of Workers' Compensation

Medical Reimbursement Schedules (LAC 40:I.Chapters 25-53)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 23:1034.2 and R.S. 23:1203, the director of the Office of Workers' Compensation declares that the following rules and regulations are adopted to be effective August 1, 1994, for a period of 120 days or until the final rule is adopted, whichever occurs first.

The amendment of these rules is necessary because the coding system currently used in the workers' compensation reimbursement schedule is inconsistent with the system used in the Medicare program and as such has caused medical providers to be required to use two codes for the same treatment which has the potential of creating billing errors and of causing medical providers to refuse to treat workers' compensation patients. It is necessary that the Office of Workers' Compensation adopt immediate updates of the medical reimbursement schedules incorporating 1994 procedure codes.

Title 40

LABOR AND EMPLOYMENT

PART I. Workers' Compensation Administration

- Chapter 25. Hospital Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 31. Vision Care Services, Billing Instruction and Maintenance Procedures
- Chapter 33. Hearing Aid Equipment and Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 35. Nursing/Attendant Care and Home Health Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 37. Home and Vehicle Modification Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 41. Durable Medical Equipment and Supplies Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 43. Prosthetic and Orthopedic Equipment
- Chapter 45. Respiratory Services Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 47. Miscellaneous Claimant Expenses Reimbursement Schedule, Billing Instruction and Maintenance Procedures
- Chapter 49. Vocational Rehabilitation Consultant Reimbursement Schedule, Billing Instruction and Maintenance Procedures

Chapter 51. Medical Reimbursement Schedule and Billing Instructions

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2 and 1203.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:212 (February 1993), amended LR 20:

Chapter 53. Dental Care Services Reimbursement Schedule and Billing Instructions

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2 and 1203.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:1161 (September 1993), amended LR 20:

A copy of the reimbursement schedule is available for purchase at \$.25 per page and can be obtained by contacting Judy Albarado at (504) 342-7559 or at the Office of Workers' Compensation Administration, Box 94040, Baton Rouge, LA 70804-9040, or 1001 North 23rd Street, Baton Rouge, LA 70802 or from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

Alvin J. Walsh
Director

DECLARATION OF EMERGENCY

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

Food Stamp Recovery (LAC 67:III.2005)

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 in the Food Stamp Program effective July 15, 1994. It is necessary to extend the previous emergency rule of March 16, 1994, for a period of 120 days, since it was effective for a period of 120 days and will expire before the final rule takes effect.

Pursuant to compliance with the recent amendment of federal regulation 7 CFR 273.18 (d)(4)(i), emergency rulemaking is necessary to change the period of time which is allowed for households to elect a repayment method for food stamps that were overissued because of inadvertent household error. The Office of Family Support will now provide the household 20 days, instead of 10, to choose a method of repayment before taking action to recover the benefits.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

D. Provisions relative to the recovery of recipient

overissuance will also be implemented. First, the agency may collect any type of overissuance by using means other than allotment reduction or cash repayment. Second, the household of a disqualified individual is allowed 10 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment. Likewise, the household responsible for any inadvertent overissuance will be allowed 20 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment.

AUTHORITY NOTE: Promulgated in accordance with F.R. 48:6837 et seq., P.L. 97-35, 97-253, 101-624 §1746, and 102-237 §911, 7 CFR 272, 273, 276 and 277.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security in LR 9:323 (May 1983). Amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

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

Food Stamp Shelter Deduction (LAC 67:III.1963 and 1983)

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 emergency rule in the Food Stamp Program effective July 1, 1994. This emergency rule shall remain in effect for a period of 120 days.

Pursuant to compliance with the food stamp provisions of Public Law 103-66, the Omnibus Budget Reconciliation Act of 1993, emergency rulemaking is necessary because the law provides an increase in the shelter deduction to take effect July 1, 1994. This change necessitates revision of §1983, in its entirety and with no substantive changes, to conform with the intent of the Administrative Procedure Act. Some inappropriate or outdated language is being reworded or removed. This change and future changes detailed in P.L. 103-66 also prompts the repeal of §1963.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 17. Administration

Subchapter I. Income and Deductions

§1963. Adjustment of Shelter Deduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:44712 et seq., 7 CFR 273.9.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:9 (January 1982), repealed by the Department of Social Services, Office of Family Support, LR 20:

§1983. Income Deductions and Resource Limits

A. In determining eligibility and benefit levels, allowable deductions include the following:

1. The earned income deduction is 20 percent of total countable gross earnings.

2. The maximum shelter deduction is \$231 for households which do not include a member who is elderly or disabled.

3. The maximum dependent care deduction is \$160 per dependent with exception.

A child care expense that is paid for or reimbursed by the Job Opportunities and Basic Skills Training Program or the Transitional Child Care Program is not deductible except for that expense which exceeds the payment or reimbursement.

B. The resource limit for a household is \$2,000, and the resource limit for a household which includes at least one elderly member is \$3,000.

AUTHORITY NOTE: Promulgated in accordance with F.R. 51:11009 et seq. and 51:11086 et seq., P.L. 99-500, P.L. 103-66, 7 CFR 273.9 and 273.10 (d)(1)(i).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 12:285 (May 1986), amended LR 12:423 (July 1986), LR 12:824 (December 1986), LR 13:181 (March 1987), LR 14:684 (October 1988), LR 15:14 (January 1989), amended by the Department of Social Services, Office of Family Support, LR 19:303 (March 1993), LR 19:905 (July 1993), LR 20:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Net Ban During Drawdown

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 56:22(B), the Wildlife and Fisheries Commission, in order to protect fish populations in freshwater impoundments during water drawdown periods, does hereby enact the following rule.

All freshwater impoundments shall be closed to use of commercial fish netting during water drawdown periods, unless otherwise specified by the department based upon biological and technical data; the closure to begin on the date the drawdown control structure is opened and continued until the lake returns to full pool following closure of the structure.

Emergency action is necessary to provide immediate protection to fish populations in impoundments that are presently, or soon will be in the drawdown condition.

The effective date of this emergency rule is July 7, 1994, and it will remain in effect for 120 days.

John F. "Jeff" Schneider
Chairman

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Spring Inshore Shrimp Season—Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters and a resolution adopted by the Wildlife and Fisheries Commission on May 5, 1994 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1994 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicate the need to do so, the secretary hereby finds:

The 1994 Spring Inshore Shrimp Season shall be closed in Zone 2, which is that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River west to the western shore of Vermilion Bay and the western shore of Southwest Pass at Marsh Island, at 12:01 a.m., Friday, July 1, 1994 (midnight Thursday, June 30, 1994).

Sporadic catches of small white shrimp have begun to show up in department samples. These small white shrimp are widely distributed throughout Zone 2 and the number of white shrimp is expected to increase substantially over the next few weeks.

Zones 1 and 3 will remain open until further notice.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Wild Alligator Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and R.S. 49:967(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission at its regular monthly meeting held July 7, 1994, in Baton Rouge, LA, does hereby set the 1994 wild alligator season dates as follows:

The annual wild alligator season dates shall be September 3, 1994 through October 2, 1994.

This emergency adoption is necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas based on up to date information.

The secretary of the Department of Wildlife and Fisheries shall have the authority to close, delay, reopen, or extend this season as biologically justifiable.

John F. "Jeff" Schneider
Chairman

RULES

RULE

Department of Agriculture and Forestry
Office of Marketing
Market Commission

Red River Tomatoes (LAC 7:V.1735)

Under the authority of the State Market Commission, R.S. 3:401 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the State Market Commission hereby adopts a regulation pertaining to inspection and grading of Red River Valley Tomatoes.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing
Chapter 17. Market Commission—Fruits and Vegetables
Subchapter B. Fruits and Vegetables Rules and Regulations

§1735. Red River Valley Tomatoes

A. Definitions

Red River Valley Tomatoes—tomatoes that are produced by farms in Louisiana that have been certified by the Red River Valley Research Station of Louisiana State University as being certified Red River Valley Tomato Producers, and which meet all horticulture practices prescribed by the Red River Valley Research station. No tomatoes that have been gassed to achieve ripeness or that do not meet the Louisiana Number 1 Grading Standard can qualify as a Red River Valley Tomato.

B. In addition to the standards referred to in LAC 7:V.1703, the following provisions govern the marketing and sale of tomatoes in Louisiana that are labeled as Red River Valley Tomatoes:

1. the U.S. Standards for Combination, 2, and 3 as stipulated by the United States Department of Agriculture (hereinafter "U.S.D.A."), shall be adopted as official State Grades;

2. the grade Louisiana Number 1 is hereby established, the standards of which are not less than those of the U.S. combination, except that not more than 15 percent tolerance for grade defects will be allowed;

3. the grades Louisiana Number 2 and Louisiana Number 3 are hereby established, these standards of which are not less than the U.S. Standards for Number 2 and Number 3;

4. color classification shall be the same as U.S. Standards;

5. size:

a. the size of tomatoes packed in any standard type shipping container shall be specified and marked according to one of the size designations set forth in Table 1. Individual containers shall not be marked with more than one size designation. Consumer packages and their master container are exempt; however, if they are marked, the same requirements apply;

b. Table 1

Louisiana Sizes		
Size Designations	Minimum Diameter*	Maximum Diameter†
LA Small	2 4/32 in.	2 9/32 in.
LA Medium	2 8/32 in.	2 17/32 in.
LA Large	2 16/32 in.	2 25/32 in.
LA Extra Large	2 24/32 in.	
LA Colossal	3 9/16 in. or Larger	

*Will not pass through a round opening of the designated diameter when tomato is placed with the greatest transverse diameter across the opening.
†Will pass through a round opening of the designated diameter in any position.

6. it shall be unlawful for any person, firm, or corporation to sell, offer for sale, ship, or move any tomato labeled as "Red River Valley Tomatoes" into the channels of fresh trade unless it meets Louisiana Number 1 grade;

7. all tomatoes offered for sale as "Red River Valley Tomatoes" are subject to inspection by U.S.D.A. licensed personnel of the Louisiana Department of Agriculture and Forestry. If a particular lot of tomatoes does not meet the Louisiana grade standards, a stop sale order will be issued on the entire lot, and the lot will be removed from retail sales until the lot has been reworked or relabeled;

8. the movement of tomatoes labeled as "Red River Valley Tomatoes" into channels of fresh trade is prohibited unless in conformance with this regulation;

9. the Louisiana Department of Agriculture and Forestry has the option of charging fees in accordance with federal rates for shipping point inspections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:405, 3:411 and 3:412.

HISTORICAL NOTE: Adopted by the Department of Agriculture, State Market Commission, September 1949, repealed LR 12:826

Bob Odom
Commissioner

RULE

Department of Culture, Recreation and Tourism Office of State Museum

Building Rental Policy (LAC 25:III.103)

The Department of Culture, Recreation and Tourism, Office of State Museum, adopted the following rule.

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§103. Building Rental Policy

The Louisiana State Museum is responsible for the preservation of historic buildings placed in its care and the collections contained within the buildings. In order to meet this responsibility the Board of Directors of the Louisiana State Museum has adopted the following policy for use of the museum's facilities for functions not sponsored by the Louisiana State Museum.

1. Requests for Usage. Requests will be considered from:

a. nonprofit organizations with purposes similar to the educational and historical museum purposes of the Louisiana State Museum;

b. official governmental agencies for governmental functions;

c. groups and individuals whose proposed usage does not involve commercial or political promotion or fundraising and whose usage is, in the opinion of the Museum Board, not in conflict with the purpose of the Louisiana State Museum.

2. Procedures

a. Requests will be considered from:

i. eligible organizations/agencies/groups/individuals for receptions and similar functions numbering no more than 500 persons and occurring during nonpublic hours;

ii. eligible organizations/agencies/groups/individuals for business meetings, lectures and slide presentations numbering no more than 200 persons and occurring during nonpublic hours.

iii. eligible organizations/agencies for business meetings, lectures and slide presentations numbering no more than 100 persons and occurring during public hours.

b. The museum director is authorized to approve usage of the building within the provisions of this policy, in addition to museum-sponsored programs/functions.

c. Requests for usage of the buildings that do not clearly come within this policy will be submitted to the Museum Board's Buildings and Grounds Committee. The committee will make a recommendation to the Museum Board for final action.

d. The Museum Board will deny an application if, in the board's opinion, the proposed usage would endanger the museum's building and/or collections or interfere with its interpretive exhibitions and other programs.

e. The Museum Board may waive the donation when the board determines that to do so would be in the best interest of the museum.

f. Base service charge fees will not be waived for nonmuseum functions.

g. The museum does not provide catering services. Host organizations must make arrangements with the caterer of their choice. The museum reserves the right to reject caterers that do not comply with the museum's instructions concerning proper care of museum facilities.

h. All requests must be submitted in writing prior to the anticipated function in sufficient time (14 days) to allow for proper planning, coordination and completion of the necessary written agreement.

i. All rentals will be based on a written agreement signed at least 10 days in advance of the event or function by the authorized representative of the museum and the organization or group renting the space. The agreement must specify all costs, fees and arrangements. All arrangements must be preapproved. Spaces in all buildings may be designated as not available.

j. Base service charge fees are established to cover costs of security, custodial and utility services. The museum may, at its discretion, make additional charges based on the nature of the function. Such additional charges will be specified in the rental agreement.

k. The museum will not remove collections/exhibition items to accommodate host organization.

l. Smoking is prohibited in the museum.

m. Host organization will designate an authorized representative who will be present at the function and responsible for all coordination with the museum.

n. If the number in attendance, time and space used is greater than indicated in the written agreement, the host organization will be billed the additional required fees, in accordance with the policy.

o. A deposit of 50 percent of the written agreement indicated cost is required one week prior to the date of the event/function. The balance will be payable upon billing after the function.

p. The museum does not furnish special equipment, tables, etc. for functions in excess of 100 persons for sit-down dinners.

q. Approved functions which require closing any portion of the museum prior to the scheduled time will be charged an additional \$100 per hour for the period closed.

r. Host organizations will be charged no less than the actual costs for repairing damage to the museum's building and/or collections caused by the function. These charges will be in addition to all other charges.

3. Rates. Established rates apply to buildings open/available at the time of the request.

a. Donation. Applicants eligible under Paragraph 1.c above will donate a gift to the Louisiana Museum Foundation fund designated for use by the State Museum for endowment,

educational acquisitions, publications, conservation, and building function support purposes. Expenditures of monies in the fund generated by these donations shall be subject to approval of the Joint Legislative Committee on the Budget. Donations will be made in accordance with the following schedule:

RULE

**Department of Culture, Recreation and Tourism
Office of State Museum**

Museum Admission Fees (LAC 25:III.105)

Location	Building	Rate (3 hours)	Each Additional Hour
New Orleans	Cabildo	\$4,000	\$1,000
New Orleans	Presbytere	\$3,000	\$1,000
New Orleans	Old U.S. Mint	\$2,500	\$ 900
New Orleans	Arsenal	\$1,500	\$ 500
New Orleans	Madame John's Legacy	\$1,500	\$ 500

b. Base Service Charge Fees—All Buildings

i. Business Meetings, Lectures, Slide Presentations

(a). 10 a.m.-5 p.m., maximum 100 persons: \$100;

(b). after 5 p.m., maximum 200 persons,

minimum one hour:

Guests	First Hour	Each Additional Hour
1-100	\$200	\$50
101-200	\$300	\$75

An additional cleaning and repair fee of \$100 during public hours and \$300 during nonpublic hours will be charged for costs involved in preparation and post-function cleaning, set-up, and take down.

ii. Receptions and Similar Functions. After 5 p.m., maximum 500 persons, minimum one hour:

Guests	First Hour		Each Additional ½ Hour	
	1st Floor	2nd Floor	1st Floor	2nd Floor
1-200	\$250	\$300	\$50	\$ 75
201-300	\$300	\$350	\$75	\$100
301-500	Both Floors \$450		Both Floors \$150	

An additional cleaning repair fee of \$300 will be charged for costs involved in preparation and post-function cleaning, set-up and take down.

iii. Sit-Down Dinner. After 5 p.m., maximum 100 persons:

Guests	First Hour	Each Additional Hour
1-50	\$250	\$100
50-100	\$500	\$200

An additional cleaning and repair fee of \$500 will be charged for costs involved in preparation and post-function cleaning, set-up and take down.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342-344.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum LR 11:683 (July 1985), amended LR 13:83 (February 1987) LR 16:295 (April 1990), LR 20: (July 1994).

James F. Sefcik
Assistant Secretary

Notice is hereby given that the Department of Culture, Recreation and Tourism, Office of State Museum, has amended the following rule:

Title 25

CULTURAL RESOURCES

Part III. Office of State Museum

Chapter 1. Public Access

§105. Admission Fees

A. Admission fees for single admissions to the Louisiana State Museum buildings in New Orleans are:

	Single Building	All Buildings Open to Public
Adult	\$4	\$10
Student/Sr. Citizen/Active Military	\$3	\$ 7.50
Under 12 years	Free	Free

B. Special or group tour rates and requirements for Louisiana State Museum buildings are as follows:

1. There must be a minimum of 25 persons in the group or tour which are old enough to require an admissions fee.

2. Tour/group should make arrangements in advance at (504) 568-6968.

3. Admission Fees

	Single Building	All Buildings
Adult	\$3.20	\$8
Student/Sr. Citizen/Active Military	\$2.40	\$6
Under 12 years	Free	Free

C. School Groups

1. Must be affiliated with a recognized public or private school system.

2. Must be accompanied by one chaperon per every 10 children, these chaperons will be admitted free. Additional chaperons will be required to pay admission fee.

3. Prefer arrangements to be made in advance at (504) 568-6968.

4. School groups admitted free when in accordance with items listed above.

D. Visitors may choose from the Presbytere, Cabildo, Old U.S. Mint, and the 1850 House.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:342-344.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of State Museum LR 12:89 (February 1986), amended LR 13:85 (February 1987), LR 20: (June 1994).

James F. Sefcik
Assistant Secretary

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Definitions for Calculation of Benefits

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity (fund), pursuant to R.S. 11:3363(F), has adopted rules and regulations applicable to interpretation of the terms "average compensation," "average salary" and "year" as utilized in the fund's enabling statute, R.S. 11:3361 (formerly 33:2101) et seq., for purposes of calculation of a firefighter's retirement benefit.

Rule I. Definitions

1. The term "year" when appearing in the term "best year of service," R.S. 11:3386 (formerly R.S. 33:2117.5) shall mean any 12-consecutive month period commencing on any day and date preceding the firefighter's retirement that results in the highest "average compensation," as defined in Rule III.1 hereof.

2. The term "year" when appearing in the term "last year of service," R.S. 11:3377(A)(1), (2) and (3) (formerly R.S. 33:2113.1(A)(1), (2) and (3)), shall mean the consecutive 12-month period ending with the day and date of the firefighter's last day of service prior to retirement.

3. The term "years" when appearing in the term "highest four consecutive years of service," R.S. 11:3384 (formerly R.S. 33:2117.3) shall mean any four consecutive years ending on any day and date preceding the firefighter's last day of service that results in the "highest four consecutive years of service."

4. The term "split" when utilized herein in regard to "year" shall mean that the "year" in question is not a calendar year and therefore ends on a day and date other than December 31.

Rule II. General

1. Under no circumstances shall the terms "average compensation" and "average salary" be interpreted to include more than one annual excess millage payment in any given "year."

2. Under no circumstances shall a different "year" be utilized for purposes of calculating the value of the different components included in "average compensation" or "average salary," except in regard to excess millage payments, as specified herein.

3. Under no circumstances shall excess millage paid to a firefighter for any period less than a full calendar year be annualized for purposes of calculating a retirement benefit, nor shall excess millage paid to the firefighter in the calendar year of his retirement be utilized in his benefit calculation unless that calendar year is also a benefit "year."

Rule III. Calculation of Benefit Amount

1. "Average compensation," as appearing in R.S. 11:3386 (formerly R.S. 33:2117.5), for purposes of identifying "best year of service," and in R.S. 11:3377(A)(1), (2) and (3) (formerly R.S. 33:2113.1(A)(1), (2) and (3)), for purposes of calculating the benefit attributable to the "last year of service," shall be the sum of the following components:

(a) if the "year" under review for purposes of calculating the firefighter's retirement benefit is a split "year:"

(A) base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the "year" under review, irrespective of date of payment; plus either (B)(i) or (ii) below, as applicable:

(B)(i) if the excess millage for the last complete calendar year included in the "year" under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two consecutive calendar years immediately prior thereto, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last such complete calendar year is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage for the last complete calendar year included in the "year" under review has already been paid, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the last complete calendar year included in the "year" under review, irrespective of the date of payment;

(b) if the "year" under review for purposes of calculating a firefighter's retirement benefit is a calendar year:

(A) base pay (including regularly paid millage) overtime, and State Supplemental Pay earned in the current calendar "year" under review, irrespective of the date of payment, plus either (B)(i) or (ii) below, as applicable:

(B)(i) if the excess millage for the calendar "year" under review has not yet been paid to the firefighter, the higher of the two excess millage amounts already paid to him for the two calendar years immediately preceding that "year," irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the calendar "year" under review is higher than the excess millage figure utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage for the calendar "year" under review has already been paid to the firefighter, the highest of the three excess millage amounts paid to the firefighter for the three consecutive calendar years ending with the calendar "year" under review, irrespective of the date of payment.

2. The term "average salary" when appearing in R.S. 11:3384 (formerly R.S. 33:2117.3), for purposes of calculating the "highest four consecutive years" of service, shall mean:

(a) if the four "years" under review for purposes of calculating the firefighter's retirement benefit begin and end with a split "year:"

(A) base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the four "years" under review, irrespective of the date of payment; plus either (B)(i) or (ii) below, as applicable:

(B)(i) if the excess millage payable for the last complete calendar year included in the four "years" under review has not yet been paid to the firefighter, the sum of the

excess millage amounts already paid for the four consecutive calendar years ending with the last complete calendar year included in the four "years" under review, irrespective of the date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last complete calendar year included in the four "years" under review is higher than that paid for the first complete calendar year utilized in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage amount payable for the last complete calendar year included in the four "years" under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the last complete calendar year included in the four "years" under review, irrespective of the date of payment;

(b) if the four "years" under review for purposes of calculating a firefighter's retirement benefit are calendar years:

(A) base pay (including regularly paid millage), overtime, and State Supplemental Pay earned in the four "years" under review, irrespective of the date of payment; plus either (B)(i) or (ii) below:

(B)(i) if the excess millage payable for the last calendar year included in the four consecutive calendar "years" under review has not yet been paid to the firefighter, the sum of the excess millage amounts already paid for the four consecutive calendar years ending with the last calendar year included in the four "years" under review, irrespective of date of payment. Provided, however, that if the excess millage amount eventually paid to the firefighter for the last calendar year included in the four calendar "years" under review is higher than that paid for the first calendar year included in the benefit calculation, the firefighter's retirement benefit shall subsequently be adjusted to reflect the higher figure; or

(ii) if the excess millage amount payable for the last calendar year included in the four calendar "years" under review has already been paid, the sum of the excess millage amounts paid to the firefighter for any four consecutive calendar years of the five consecutive calendar years ending with the final calendar "year" under review, irrespective of the date of payment.

William M. Carrouche
President

RULE

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice Sentencing Commission

Felony Sentencing Guidelines (LAC 22:IX.Chapters 1-4)

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission has amended the Felony Sentencing Guidelines, LAC 22:IX.Subpart 1, under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Adoption of the amendments described here is necessary to eliminate technical problems experienced by the courts and the Office of Probation and Parole in implementing the Felony Sentencing Guidelines as of January 1, 1992 and to make such other adjustments as are necessary to ensure the timely and expeditious sentencing of offenders in a fair and equitable manner under the Sentencing Guidelines without delay.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part IX. Sentencing Commission

Subpart 1. Felony Sentencing Guidelines

Chapter 1. Purpose and Principles

§103. Sentencing Principles

* * *

K. In imposing sentence, the court shall consider the Sentencing Guidelines in effect at the time of the guilty plea, plea of nolo contendere, or verdict of guilty.

* * *

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, Louisiana Sentencing Commission, LR 18:45 (January 1992), repromulgated LR 18:165 (February 1992), amended LR 20: (July 1994).

Chapter 2. Determining Sentences Under the Sentencing Guidelines

§205. Criminal History Index Classification System

* * *

C. Criminal History Index Factors

* * *

3. Method of Calculation

a. Prior felony convictions and adjudications: Score all prior felony convictions and applicable felony adjudications of delinquency by the number of points ascribed to the seriousness level of the offense of conviction as set forth in §402.A and C. If the prior felony of conviction is based on an unranked offense, i.e., not ranked in 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 under-represents 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 misdemeanor convictions and adjudications: Add one-fourth point, not to exceed a total of one point, for each qualifying misdemeanor. An offender's criminal history index score for misdemeanor convictions or adjudications shall not increase the offender's criminal history index more than one class. The following misdemeanor convictions or adjudications qualify:

i. a misdemeanor conviction for an offense in Louisiana Revised Statute Title 14 or the Uniform Controlled Dangerous Substances Law of R.S. 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 misdemeanor conviction for a traffic offense in R.S. 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;

iii. any misdemeanor adjudication if, at the time of the commission of the current offense, the offender was under age 17, and is being prosecuted as an adult.

c. Prior similar criminal behavior: Add one-half 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 §402.D, Crime Family Table. The court also may add the additional one-half point if the court finds that the prior conviction or adjudication was analogous to the offenses in the crime family of the current offense, and states for the record the reasons for the finding.

d. Offenses committed during custody status: Add one point if the current felony offense was committed while the offender was in a custody status.

e. 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, Louisiana Sentencing Commission, LR 18:46 (January 1992), repromulgated LR 18:166 (February 1992), amended LR 18:960 (September 1992), LR 19:892 (July 1993), LR 20: (July 1994).

§209. Departures from the Designated Sentence Range

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:

17. The offender has spent a significant period of time of any custody status during which he has not engaged in any criminal activity resulting in a felony or misdemeanor conviction, as defined herein. If deemed appropriate, the court may consider the suggested crime-free time reduction

factors in §402.E. Any prior conviction or adjudication of a level 0 offense shall not be reduced.

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, Louisiana Sentencing Commission, LR 18:46 (January 1992), amended LR 18:960 (September 1992), LR 19:892 (July 1993), LR 20: (July 1994).

Chapter 3. General Sentencing Policy

§301. Plea Agreements Involving Stipulated Sentences

C. Stipulating Specific Facts and Circumstances

1. As part of a plea agreement under the Guidelines, the parties may stipulate the facts and circumstances of the case and the prior criminal history of the defendant.

2. If the parties enter such a stipulation at the time of the plea, the court shall either:

a. accept the stipulation, or

b. refuse to accept the plea of guilty with such a stipulation.

3. If such a stipulation is entered and accepted, the court shall consider such a stipulation to be the facts and circumstances of the case and the criminal history of the defendant for purposes of imposition of 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, Louisiana Sentencing Commission, LR 18:49 (January 1992), amended LR 20: (July 1994).

Chapter 4. Louisiana Sentencing Guidelines Tables

§401. Criminal Seriousness Tables

A. Crime Seriousness Master Ranking List

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

B. Felonies Ranked Numerically by Statute Number

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of

Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

* * *

C. Ranked Felonies in Alphabetical Order

* * *

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

* * *

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, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:961 (September 1992), LR 19:892 (July 1993), LR 20: (July 1994).

§402. Criminal History Tables

* * *

D. Crime Family Table

* * *

Battery of a police officer (Type I: Serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 3.

Battery of a police officer (Type II: No serious bodily injury and offender is under jurisdiction and custody of Department of Public Safety and Corrections) (R.S. 14:34.2(B)): Level 5.

Assault by drive-by shooting (R.S. 14:37.1): Level 3.

Looting (14:62.5): Level 3.

Carjacking (14:64.2): Level 1.

Contributing to the delinquency of juveniles (Become involved in commission of felony) (14:92(A)(11),(E)): Level 6.

Operating a vehicle while intoxicated (Child Endangerment Law) (14:98(J)): Level 5.

False personation of a peace officer (14:112.1): Level 6.

* * *

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, Louisiana Sentencing Commission, LR 18:50 (January 1992), amended LR 18:961 (September 1992), LR 19:893 (July 1993), LR 20: (July 1994).

Complete tables 401.A, B, C, and 402.D, including amendments, can be obtained from the Office of State Register, 1051 North Third Street, Baton Rouge, LA 70802 or from the Louisiana Sentencing Commission, 1885 Wooddale Boulevard, Room 708, Baton Rouge, LA 70806.

Michael A. Ranatza
Executive Director

RULE

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Continuing Education Approval by NCERS (LAC 46:XLIX.905, 907, 1101)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators has amended rules and regulations relative to licensing and regulating nursing facility administrators. The amendments include minor technical and grammatical revisions and clarifications to current rules in effect.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 9. Continuing Education

§905. Registration of Institutions as Providers of Continuing Education Courses

A. - C. ...

D. National Continuing Education Review Seminar (NCERS) approved programs are exempt from the requirement that providers be approved by the board. The approval of programs by NCERS, operated by the National Associations of Boards of Examiners for Nursing Home Administrators, Inc., meets board requirements.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20: (July 1994).

§907. Approval of Programs of Study

A. Approval of individual programs is given when:

1. - 2. ...
3. it is a college course, including correspondence, on any health care subject, or the course is taken for credit toward a college degree;
4. ...
5. it is a home study course which has been approved by NCERS or reviewed and approved by the board's education committee.

6. - 8. ...

B. ...

1. - 2. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20: (July 1994).

Chapter 11. Licenses

§1101. License Form

A. ...

1. Upon completion of his AIT program an applicant who has passed his examinations shall remit the final report and the Certificate of Completion immediately. He shall complete all other requirements and be licensed within 35 days of completion of the AIT, unless otherwise authorized by the board.

2. An applicant who completes his AIT program before passing the examinations shall remit the final report and Certificate of Completion immediately, and shall undergo any required oral examination as scheduled by the board. Within 10 working days after receiving notice he has passed his examinations he shall remit his Initial Registration form with fees, unless otherwise authorized by the board.

B. Any license issued by the board shall be under the signature of the chairman and the executive director of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20: (July 1994).

Van T. Weems
Executive Director

RULE

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Examinations; Administrator-in-Training
(LAC 46:XLIX.503-511 and 701)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators has amended rules and regulations relative to licensing and regulating nursing facility administrators. The amendments include minor technical and grammatical revisions and clarifications to current rules in effect.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 5. Examinations

§503. Pre-examination Requirements: Conditions Precedent

A. No person shall be admitted to or be permitted to take an examination for licensing as a nursing home administrator unless he shall have first submitted evidence satisfactory to the board that he:

1. is 21 years of age or older;
2. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20: (July 1994).

§509. Subjects for Examination and Continuing Education

A. Every applicant for a license as a nursing home administrator, after meeting the requirements for qualification for examination as set forth in §503 of these rules and regulations, shall successfully pass a written examination. The following shall be considered as guidelines with respect to the subjects for the written examination and continuing education:

1. - 2. ...
3. resident care;
4. - 5. ...

B. ...

C. The board may conduct courses on nursing facility administration, especially designed for applicants and for licensees, when the demand is sufficient to defray expenses. Individuals who desire this course shall pay \$15 per hour of instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended and promulgated LR 9:684 (October 1983), amended LR 14:23 (January 1988), repealed and repromulgated by the Department of Health and Hospitals, Board of

Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20: (July 1994).

§511. Grading Examinations

Every candidate for licensing as a nursing facility administrator shall pass the State Standards Examination and the N.A.B. National Examination by scores established by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2505.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20: (July 1994).

Chapter 7. Administrator-in-Training (AIT)

§701. Program

A. An applicant must serve as a full-time (40 hours per week) administrator-in-training for a minimum of six consecutive months. The program may be completed or begun before or after taking examinations so long as it is carried out strictly according to Chapter 7. During this time the AIT must work under close, direct, personal, on-site supervision of a full-time preceptor who shall be administrator serving as assistant administrator in the facility in which the AIT undertakes training.

1. Any part-time or full-time employment while undertaking an AIT program shall have prior approval of the board.

2. No person shall undertake as AIT program while serving as director of nursing or head of any other department within a nursing home.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Home Administrators, LR 18:181 (February 1992); amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 20: (July 1994).

Van T. Weems
Executive Director

RULE

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Meetings; Powers; Duties (LAC 46:XLIX.301-305)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators has amended

rules and regulations relative to licensing and regulating nursing facility administrators. The amendments include minor technical and grammatical revisions and clarifications to current rules in effect.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 3. Board of Examiners

§301. Meetings

A. - C. ...

D. The board as a public body operates in accord with R.S. 42:1 - R.S. 4:13. The conduct of meetings, notices, voting, record keeping, and so on shall be in accord with these statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504(C).

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20: (July 1994).

§303. General Powers

A. ...

B. From time to time the board shall publish a newsletter and a directory of licensed nursing facility administrators, and shall make and publish such rules and regulations not inconsistent with law as it may deem necessary and proper for the execution and enforcement of the law and rules and regulations governing the licensing and registration of nursing facility administrators.

C. ...

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 18:181 (February 1992), amended LR 20: (July 1994).

§305. Officers and Duties

A. - C. ...

D. The executive director shall conduct all routine correspondence for the board, shall issue all notices of meetings and hearings, shall have custody of all books, records and property of the board and shall perform all duties pertaining to the office of executive director. The executive director shall biennially, in accordance with the directives of the state office of the legislative auditor, submit financial records for audit. The audit results, on receipt, will be promptly distributed to all members of the board for review.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2503 and R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners of Nursing Facility Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:461 (July 1983), repealed and repromulgated by the Department of Health and Hospitals, Board of

Van T. Weems
Executive Director

RULE

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

Advance Directives

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospital, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions to comply with federal and state law governing individuals' rights to control the decisions that relate to their own medical care.

Section 1. Definitions

Advance Directive—a written statement of instruction in a form recognized under state law relating to the provision of medical care in the event of incapacity, including the living will and the durable power of attorney for health care.

Durable Power of Attorney for Health Care—a document made in accordance with La. Civil Code, Act 2985 et seq. designating a person to act on the executing persons's behalf in making medical treatment decisions.

Health Care Provider—any health maintenance organization, home health agency, hospice, hospital, or nursing facility.

Information Concerning Advance Directive—pamphlets on advance directive in Louisiana and preprinted advance directive forms.

Living Will—a written declaration made in accordance with R.S. 40:1299.58.3, in which a person provides instruction regarding the kinds of life-saving or life-sustaining care and treatment that the person does or does not wish to receive in the event of incapacitation or terminal illness, including the suspension of nutrition and hydration.

Section 2. Information Dissemination by the Department

The department shall supply all health care providers with information concerning advance directives.

Section 3. Information Dissemination by all Health Care Providers

A. A health care provider shall distribute information concerning advance directives to each person at the time of admission into a facility or upon initiation of services, as follows:

1. A hospital and a nursing facility shall provide the written information at the time the patient/resident is admitted.

2. A hospice program shall provide the written information at the time care commences.

3. A home health agency shall provide the written information before the commencement of home care services.

4. A health maintenance organization or health insuring organization shall provide the written information at the time of enrollment.

B. A health care provider shall have a written policy concerning advance directives which shall be available for inspection.

C. If a health care provider declines to comply with an advance directive or parts thereof, this information shall be included in the written information disseminated by the health care provider under Subsections A and B. In addition, the health care provider must assist a person whose advance directive would not be honored by that provider to locate another provider who will honor the advance directive. Such assistance may consist of transferring the person to another facility or referring the person to a new provider within the facility who will honor the advance directive.

Section 4. Health Care Provider Responsibilities

Each health care provider shall establish and maintain written policies and procedures regarding advance directives. A health care provider shall maintain these policies and procedures for review by the department during a survey. These policies and procedures must include:

A. a written provision relating to individual rights, under federal and state law/regulation to make decisions concerning medical treatment;

B. the right of a patient to formulate advance directives as defined by the federal and state laws/regulations;

C. a provisions providing adequate written notice of individual adult patients (at the time of admission, commencement, or enrollment) concerning patient rights;

D. a copy of existing advance directives in the patient's medical records;

E. documentation of information dissemination as required in Section 3;

F. documentation in the individual's medical record as to whether the individual has executed an advance directive;

G. a plan for participation in community and staff educational campaigns regarding advance directive by newsletters, articles in local newspapers, local news reports, or commercials; and

H. an assurance of compliance with state law with regard to:

1. informing relevant personnel and networks of health care providers and services;

2. providing information about advance directives;

3. ascertaining existence of advance directives;

4. making reasonable efforts to obtain copies by written request; and

5. transferring copies of advance directives brought in by individuals seeking provider services.

Section 5. Advance Directive in the Event of Incapacity

If a persons is mentally incapacitated at the time of admission to or initiation of service by a health care provider, the health care provider shall disseminate information regarding advance directives to the family or legal

representative of the person. When the persons's incapacity has been alleviated, the health care provider shall provide the information to the person.

Section 6. Previously Executed Advance Directives

Except as provided by R.S. 40:1299.58.7(B) and (D), when the health care provider is presented with a copy of a patient's advance directive, the health care provider shall comply with the advance directive.

Section 7. Penalties

A. The department may access provider records to verify documentation of date and time of execution of advance directives. Any inquiry shall be directed to the appropriate staff member. Determination of a violation shall result in a notice of noncompliance.

B. Failure to correct a violation listed in a notice of non-compliance may result in sanctions against the provider imposed by the department and may include exclusion from the Medicare and Medicaid programs.

C. Registration of any complaint shall be processed according to the department's complaint procedure.

Section 8. Organ Procurement Information

A. The health care provider shall disseminate informative literature on organ donation simultaneously with the description of state law regarding advance directives.

B. Only a health care professional trained in the requesting process may discuss organ donation with a patient. Any discussion of organ donation with a patient by an untrained health care professional is strictly prohibited.

Rose V. Forrest
Secretary

RULE

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

Case Management Services for the Chronically Mentally Ill

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid program as authorized by R.S. 46:153 under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Bureau of Health Services Financing requires providers of targeted case management services to the chronically mentally ill to meet the following additional provisions for enrollment and participation for delivery of these services.

* * *

2. Enrollment Requirements. The applicant for case management services must participate in a site visit which will consist of a review and approval of the following:

- a. a current license for the provision of targeted case management services in the state of Louisiana;
- b. the administrative capacity to provide targeted case

management services as evidenced by a review of the following:

- i. the current provider budget for targeted case management;
- ii. a current audit report, if the agency has been in existence;
- iii. provider policies and procedures;
- iv. provider organizational chart;
- v. the provider has a written program philosophy and specifies the target population to be served;
- c. established linkages with the resources available in the community as evidenced by memorandums of agreement with other agencies and/or a current resource file which lists formal and informal resources available in the community;
- d. a relationship with a local inpatient hospital and a 24-hour crisis response system must also be identified and documents provided to verify the relationship;
- e. qualified staff who meet the requirements outlined in the Medicaid Case Management Services Manual or current targeted case management Medicaid regulation. Documentation of adherence to any legally mandated regulations related to specific populations such as children;
- f. an orientation program for all new staff and demonstrates the capacity for ongoing staff training;
- g. a written plan to determine the effectiveness of the program including continuous quality improvement (QA) plan approved by the Medicaid program or its designee;
- h. a written policy for intake/screening, including referral criteria;
- i. a written policy for closure a plan for maintenance of needed services after case closure;
- j. participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Medicaid program or its designee on a monthly basis via electronic mail. The CAMIS software and electronic mail software will be provided free of charge.

Current providers of targeted case management for CMI shall re-enroll with the Medicaid program and meet the requirements outlined in sections 2.a through 2.j above. To re-enroll the provider must contact the regional Office of Mental Health between July 1 and July 31, 1994 to schedule a site visit.

3. Standards of Participation. In order to be reimbursed by the Medicaid Program, the provider of case management services must:

A. ensure that each recipient has freedom of choice with regard to providers of any service, including case management services.

B. employment of case managers commencing effective with this rule shall meet the following requirements:

- (1) be an individual with at least a bachelor's degree and one year of subsequent experience in a human services field; or
- (2) be a licensed registered nurse with two subsequent years of experience in public health nursing or a human services field; and
- (3) be supervised by a Qualified Mental Health Professional (QMHP) as defined by the Office of Mental Health.

C. obtain prior authorization:

(1) candidates for case management services must be Medicaid eligible and authorized as a member of the targeted population by the Medicaid agency or its designee;

(2) the case management service plan must be approved by the Medicaid agency or its designee;

D. participate in provider training and technical assistance as required by the Medicaid agency or its designee;

E. ensure that services are provided according to an individualized service plan developed by an interdisciplinary team of professionals;

F. ensure that only one individual who is an employee of the case management agency is assigned as the primary case manager for each recipient;

G. ensure that the one case manager for each recipient under this provision visits the recipient on site at his place of residence at least once per month for the first 90 days of service and at least every 90 days thereafter;

H. ensure that the individual assigned as the case manager has at least weekly contact with the recipient or his/her legal representative and that these contacts are documented in progress notes and address the efficacy of the case plan;

I. ensure that the case manager assigned to serve the recipient as well as any other employee of the case management provider providing services keep sufficient records to document services being provided;

J. ensure that appropriate professional consultation is available to each case manager at all times;

K. ensure that appropriate referrals for services are made and documented for each recipient served under this provision;

L. ensure that the maximum caseload established by the Bureau of Health Services Financing for a case manager is not exceeded;

M. abide by the provisions of the Provider Agreement entered into with the Bureau of Health Services Financing.

4. A. - C. ...

D. Standard provisions concerning such procedures as on-site monitoring, participation in quality assurance and utilization reviews, audits, submittal of cost reports, etc., contained in the Case Management Provider Manual or current Medicaid regulations shall be adhered to by providers of Case Management services.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:478 (June 1989), amended LR 20: (July 1994).

Copies of this and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

Rose V. Forrest
Secretary

RULE

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

**Job Opportunities and Basic Skills Training Program
(LAC 67:III.2916)**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Subpart 5, Job Opportunities and Basic Skills Training Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

**Subpart 5. Job Opportunities and Basic Skills
Training Program**

Chapter 29. Organization

Subchapter C. Activities and Services

§2916. Program Components

1. Education

a. A postsecondary education of an associate (two year) or baccalaureate (four year) degree from a college or university is an appropriate goal for employment only under the following conditions:

i. The participant will be ready to enter the college program within one semester, or an equivalent amount of time, from the initial development of the employment goal.

ii. There is no identifiable deterrent which would prevent or delay the participant's completion of the course of study, and the participant is expected to complete the course of study within the two or four year timeframe of the curriculum selected.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20: (July 1994).

Gloria Bryant-Banks
Secretary

RULE

**Department of Social Services
Office of the Secretary**

Sanctions; Fee Scales (LAC 67:I.101;107)

The Department of Social Services, Office of the Secretary, amends the following rule in the Child Care Assistance Program effective August 1, 1994.

This rule adopts sanctions for the receipt of ineligible benefits in the Child Care Assistance Program, and updates the Sliding Fee Scale to incorporate changes in the state median income.

**Title 67
SOCIAL SERVICES**

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Eligibility Requirements

A. Child Care and Development Block Grant

1. - 7. ...

8. Sanction procedures will be used in those cases in which ineligible benefits equal to at least \$200 are uncollectible from the client.

a. If the case is currently in payment status, it will be closed until ineligible payments are recovered. The number

of months of the sanction period will be determined by dividing eligible monthly benefits at the time of closure into the total amount of ineligible benefits.

b. If the case is not in payment status, and the client subsequently reapplies, the application will be rejected until ineligible payments are recovered. The number of months of the sanction period will be determined by dividing current monthly eligible benefits into the total amount of ineligible benefits.

c. If the client contacts the regional office of the Child Care Assistance Program about a sanction due to receipt of ineligible benefits and expresses an interest in repayment, the regional office will again attempt to recover the ineligible amount. When the client begins to make payments, the client can reapply and, if eligible, be placed on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:1133 (October 1992), LR 18:1415 (December 1992), LR 19:698 (November 1993), LR 20:459 (April 1994), LR 20: (July 1994).

§107. Payment

A. Each family shall contribute toward the payment of child care based on the size of the family and ability to pay. The sliding fee scale is as follows:

Sliding Fee Scale for Child Care Recipients

Number in Family Unit											
Monthly Family Income	2	3	4	5	6	7	8	9	10	11	Recipient's Share of Child Care Fee
	0-785	0-990	0-1195	0-1400	0-1605	0-1810	0-2015	0-2220	0-2425	0-2630	5%
	786-913	991-1135	1196-1368	1401-1602	1606-1835	1811-2068	2016-2302	2221-2535	2426-2768	2631-3002	10%
	914-1041	1136-1279	1369-1541	1603-1803	1836-2064	2069-2326	2303-2588	2536-2849	2769-3111	3003-3373	30%
	1042-1169	1280-1424	1542-1714	1804-2004	2065-2294	2327-2584	2589-2874	2850-3164	3112-3454	3374-3744	50%
	1170-1297	1425-1568	1715-1887	2005-2205	2295-2524	2585-2842	2875-3160	3165-3479	3455-3797	3745-4115	70%
	1298 and Above	1569 and Above	1888 and Above	2206 and Above	2525 and Above	2843 and Above	3161 and Above	3480 and Above	3798 and Above	4116 and Above	100%

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:1269 (November 1992), amended LR 19:695 (November 1993), LR 20:461 (April 1994), LR 20: (July 1994).

Gloria Bryant-Banks
Secretary

RULE

**Department of Transportation and Development
Office of General Counsel**

Ferry Toll Exemption (LAC 70:I.509)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has adopted a rule entitled "Ferry Toll Exemptions for Employees of Parish Governing Authorities" in accordance with Act 345 of 1993.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 5. Tolls

§509. Ferry Toll Exemptions for Employees of Parish Governing Authorities

A. The free right of passage over any public ferry which moves between two landings located in the same parish and which is leased out or controlled by the Department of Transportation and Development for which toll is exacted shall be provided to all employees of parish governing authorities in official parish governing authority vehicles in their passage to and from work on an official project of the parish governing authority.

B. Department of Transportation and Development ferry locations affected:

1. Cameron - two locations;
2. Edgard/Reserve;
3. Iberville - two locations;
4. Duty Enterprise;
5. Canal Street/Algiers.

C. The above mentioned free passage shall be granted to those persons operating a vehicle marked with the official logo of the parish governing authority, or if operating an unmarked parish-owned vehicle, presentation of picture identification shall be required.

AUTHORITY NOTE: Promulgated in accordance with Act 345 of 1993.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the General Counsel, LR 20: (July 1994).

Jude W. P. Patin
Secretary

RULE

**Department of Transportation and Development
Office of General Counsel**

**Seasonal Agriculture Product Outdoor Advertising Devices
(LAC 70:I.Chapter 1)**

The Department of Transportation and Development, Office of the General Counsel, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., adopted the following rule, to provide procedures for seasonal agriculture product outdoor advertising devices.

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 1. Outdoor Advertisement

Subchapter E. Seasonal Agriculture Product Outdoor Advertising Devices

§151. Definitions

Federal Aid Primary System—that portion of connected main highways, as officially designated, or as may hereafter be so designated, by the Department of Transportation and Development, and approved pursuant to the provisions of Title 23, United States Code.

In Season—that period of time that an agricultural product produced in this state is commonly harvested and sold here.

Right-of-Way—that area dedicated for use as a highway.

Seasonal Agricultural Signs—outdoor signs of a temporary nature, erected for the purpose of notifying the public of the sale of agricultural products which are in season at the time the sign is displayed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20: (July 1994).

§153. General Requirements

A. This Subchapter pertains only to signs placed within 660 feet of the nearest edge of the right-of-way of federal aid primary system highways. To qualify under the provisions of this Subchapter, signs shall meet the following requirements:

1. signs shall not be larger than 32 square feet in surface area;
2. signs shall advertise only the sale of seasonal agricultural products grown by the person who erects and maintains said signs, or the person who directs that the signs be erected;
3. the grower of the agricultural product advertised shall be responsible for maintenance and removal of the sign, even if the grower contracted to have the sign erected by a third party;
4. seasonal agricultural products advertised on the signs shall be offered for sale at the location where they are grown;
5. signs shall be erected only during the period of time that the products advertised are in season and shall be removed by the owner of the sign within seven days of the end of that time;

6. signs shall be placed on private property only with the permission of the landowner and shall not be placed in the highway right-of-way;

7. signs shall not be placed closer than 500 feet to an intersection;

8. all signs must be erected within a 60 mile radius of the location where the agricultural product advertised is grown; and

9. no more than one sign in each direction shall be placed within 500 feet of the interchange leading from the highway to the place where the products advertised are to be sold.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20: (July 1994).

§155. Removal of Unlawful Advertising

If the owner of any sign erected in violation of this Subchapter fails to comply with the provisions listed herein within 30 days of receipt of notice issued by Louisiana Department of Transportation and Development, as provided in R.S. 48:461.7, that sign shall be removed at the expense of the owner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.2(A)(7) and R.S. 48:461.7.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 20: (July 1994).

Jude W. P. Patin
Secretary

RULE

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

Ambulance Services

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees has amended the Plan Document for the State Employees Group Benefits Program, as approved and adopted by the Board of Trustees on December 9, 1993, in the following particulars.

1. Article 3, Section I, Subsection F, Part 18 is amended by deleting subpart c in its entirety.

2. Article 3, Section VIII is amended by deleting Subsection HH in its entirety and redesignating Subsections II through MM as HH through LL, respectively.

The purpose, intent, and effect of these amendments is to

remove the exclusion of payment for ambulance services for any person who is a member of a prepaid ambulance service.

James R. Plaisance
Executive Director

RULE

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

Plan Document

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees has readopted the entire plan document for the State Employees Group Benefits Program.

The plan document sets forth all terms and conditions pursuant to which eligibility and benefit determinations are made with regard to the self insured health and accident benefit plan provided for state employees and their dependents pursuant to R.S. 42:851 et seq.

The plan document is available and may be viewed in its entirety from the Board of Trustees, State Employees Group Benefits Program, 5825 Florida Boulevard, Baton Rouge, LA and at the Office of the State Register, 1051 North Third Street, Suite 512, Capitol Annex, Baton Rouge, LA, phone (504)342-5015.

James R. Plaisance
Executive Director

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Caney Creek Reservoir Bass (LAC 76:VII.149)

The Louisiana Wildlife and Fisheries Commission hereby amends the following rule changing the classification of Caney Creek Reservoir from a "quality" lake to a "trophy" black bass lake.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sports and Commercial Fishing

§149. Black Bass Regulations—Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a

statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following waterbodies:

1. Concordia Lake (Concordia Parish), False River (Pointe Coupee Parish) and Caney Creek Reservoir (Jackson Parish):

a. Size Limit: 15 inch - 19 inch slot. A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily Take: Eight fish of which no more than two fish may exceed 19 inches maximum total length.*

c. Possession Limit:

i. On water—same as daily take.

ii. Off water—twice the daily take.

2. Lake Bartholomew (Morehouse and Ouachita parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

b. Daily Take: Eight fish of which no more than four fish may exceed 17 inches maximum total length.*

c. Possession Limit:

i. On water—same as daily take.

ii. Off water—twice the daily take.

* *Maximum Total Length*—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325 (C), 326.3

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:489 (May 1991), amended LR 17:1122 (November 1991), LR 20: (July 1994).

John F. "Jeff" Schneider
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hardwater Lake Netting Prohibition (LAC 76:VII.171)

The Wildlife and Fisheries Commission hereby adopts the following rule prohibiting the use of gill nets, trammel nets and fish seines in Hardwater Lake located in Grant Parish.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §171. Netting Prohibition - Hardwater Lake

The Louisiana Wildlife and Fisheries Commission hereby prohibits the use of gill nets, trammel nets and fish seines in Hardwater Lake located in Grant Parish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20: (July 1994).

John F. "Jeff" Schneider
Chairman

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Red Snapper Minimum Size Limit (LAC 76:VII.335)

The Wildlife and Fisheries Commission does hereby amend LAC 76:VII.335 raising the minimum size limit for red snapper, which is part of the existing rule for daily take, possession, and size limits for reef fishes set by the commission. Authority for adoption of this rule is included in R.S. 56:6(25)(a) and 56:326.3.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 3. Saltwater Sport and Commercial Fishery §335. Daily Take, Possession and Size Limits Set by Commission, Reef Fish

G. Species	Minimum Size Limits
1. Red Snapper	14 inches total length

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(25)(a), 56:326.1 and 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 16:539 (June 1990), amended LR 19:1442 (November 1992), LR 20: (July 1994).

John F. "Jeff" Schneider
Chairman

RULE

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Resident Hunting Seasons (1994-95)

In accordance with the notice of intent published in the March 1994 issue of the *Louisiana Register*, the Louisiana Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby ratifies regulation on open hunting season dates, bag limit, methods of taking, and rules and regulations on department-operated wildlife management areas for the period September 1, 1994 - August 31, 1995. Authority to establish regulation is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950.

A synopsis of season dates is included and made part of this rule. The full text of these regulations may be viewed at the Office of the State Register, Capitol Annex, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802 and at Wildlife and Fisheries Headquarters, 2000 Quail Drive, Baton Rouge, LA 70810.

Resident Game Birds and Animals

Shooting hours: one-half hour before sunrise to one-half hour after sunset. Also consult regulation pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

SPECIES	SEASON DATES	DAILY BAG LIMIT	POSSESSION LIMIT
Quail	Nov. 24 -Feb. 28	10	20
Rabbit	Oct. 1 - Feb. 28	8	16
Squirrel	Oct. 1 - Jan. 29	8	16
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6/season (By all Methods)
Turkey	See Schedule	1	3/season

DEER HUNTING SCHEDULE				
AREA	ARCHERY	STILL HUNT	MUZZLELOADER (All Either Sex)	WITH OR WITHOUT DOGS
1	Oct. 1 - Jan. 31	Nov. 19-Dec. 4 Jan. 6-Jan. 16	Dec. 5-Dec. 9	Dec. 10 - Jan. 5
2	Oct. 1 - Jan. 22	Oct. 29-Dec. 4	Dec. 5-Dec. 9	Dec. 10 - Jan. 5
3	Oct. 1 - Jan. 22	Oct. 29-Dec. 4 Dec. 10-Jan. 5	Dec. 5-Dec. 9	
4	Oct. 1 - Jan. 22	Nov. 19-Dec. 4 Dec. 10-Jan. 8	Dec. 5-Dec. 9	
5	Oct. 1 - Jan. 22	Nov. 19- Nov.27	Dec. 5-Dec. 9 (Bucks Only)	
6	Oct. 1 - Jan. 22	Nov. 19-Dec. 2	Dec. 3-Dec. 9	Dec. 10 - Jan. 22
7	Oct. 1 - Jan. 22	Oct. 29-Nov. 2 Nov. 19- Nov.27	Dec. 3-Dec. 9	Dec. 10 - Jan. 22
8	Oct. 1 - Jan. 22	Nov. 19-Dec. 2 Jan. 6-Jan. 22	Dec. 3-Dec. 9	Dec. 10 - Jan. 5

TURKEY HUNTING SCHEDULE	
AREA	SEASON DATES
A	March 25 - April 23
B	March 18 - April 23
D	April 8 - April 23
E	March 25 - April 2

CITATION: None - Changes annually

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, and Wildlife and Fisheries Commission LR 20: (July 1994).

John F. "Jeff" Schneider
Chairman

NOTICES OF INTENT

NOTICE OF INTENT

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

Requirements for Licensees (LAC 7:XXIX.15115)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Horticulture Commission, proposes to amend rules and regulations regarding the requirements for licensees. These rules comply with and are enabled by R.S. 33801 et seq. No preamble regarding these rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXIX. Horticulture Commission

Chapter 151. Horticulture Commission

§15115. General Requirements for all Licensees or Permittees

E. Licensees must display at least one of their license numbers on both sides of all vehicles that have advertisement or signs and are used for business purposes with lettering at least 2 inches high and legible at the distance of 25 feet. The number to be displayed shall be the last four digits of the license number preceded by two letters indicating the type of license as follows:

AR - Arborist

LA - Landscape Architect

RF - Retail Florist

HS - Horticulturist

LC - Landscape Contractor

WF - Wholesale Florist

UA - Utility Arborist

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3801 and R.S. 3:3808.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Horticulture Commission, LR 8:185 (April 1982), amended by the Department of Agriculture and Forestry, Horticulture Commission, LR 14:7 (January 1988), LR 20:

Interested persons should submit written comments on the proposed amendments to Craig M. Roussel, Director, Horticulture and Quarantine Division, Box 3118, Baton Rouge, LA 70821-3118, prior to August 30, 1994.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Requirements for Licensees

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units are anticipated to result from implementation of the proposed rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue to state or local governmental units is anticipated to result from implementation of the proposed rule changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Persons currently licensed by the Horticulture Commission will be required to purchase 12 adhesive letterings to place on each business vehicle. Anticipated cost is approximately \$4 per vehicle.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition or employment is anticipated.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Seed Certification Standards (LAC 7:XIII.8725)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 3:1433, notice is hereby given that the Department of Agriculture and Forestry intends to amend LAC 7:XIII.8725.

Title 7

AGRICULTURE AND ANIMALS

Part XIII. Seeds

Chapter 87. Seed Certification Standards

§8725. General Requirements for Certification

A. The crop or variety to be certified must have been approved for certification by the Louisiana Department of Agriculture and Forestry. Also, the originator, developer, owner or agent shall provide the following to the Department of Agriculture and Forestry:

K. The grower must maintain complete records accounting for all production and final disposition of all certified seeds.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:565 (November 1982), amended LR 9:197 (April 1983), repealed and repromulgated LR 12:825 (December 1986), amended LR 20:642 (June 1994), LR 20:

Comments will be accepted from any interested parties through Friday, October 21, 1994. Comments should be addressed to: Mr. Benjy Rayburn, Assistant Director, Seed Programs, Seed Testing Laboratory, Box 1108, Baton Rouge, LA 70821-1108, telephone (504)925-4733.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Seed Certification Standards**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to state or local governmental units is anticipated to result from the implementation of the proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the implementation of the proposed rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule amendments will benefit Louisiana certified seed producers by decreasing the failure rate of certified seed lots due to elevated moisture. An estimate of benefits is not ascertainable at this time.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Certified seed producers in Louisiana will be more competitive with those of other southern states.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Pay Increase of Limited Duration

The State Civil Service Commission will hold a public hearing on August 3, 1994 to consider the following rule proposal. The hearing will begin at 9 a.m. and will be held at the Department of Civil Service, Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

The following will be considered at the meeting:

Proposed Amendment to Rule 6.3

6.3 Adoption of Pay Plan

- (a) -(b) ...
- (c) A Pay Plan may include but not necessarily be limited to an adjustment to the pay structure, an increase of limited

duration, a general increase, and/or new, revised or abolished jobs.

(d) ...

Explanation

This rule change is needed to provide a mechanism to grant the supplemental payment recently approved by the Legislature and to provide a mechanism for any future pay increases of a limited duration.

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

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

Allen Reynolds
Deputy Director

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1929—Accounting and Governmental Handbook (LAC 28:I.912)

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:950 et seq., and approved for advertisement, Bulletin 1929, Revised Louisiana Accounting and Governmental Handbook for Local School Boards, Revised 1994. This handbook will be included in the Administrative Code, Title 28 as noted below:

Title 28

EDUCATION

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans
§912. Accounting and Reporting Procedures**

A. Bulletin 1929

1. Bulletin 1929, Revised Louisiana Accounting and Governmental Handbook for Local School Boards, revised 1994 is adopted.

2. The primary purpose of the Louisiana Accounting and Uniform Governmental Handbook for Local School Boards is to serve as a vehicle for program cost accounting at the local and state levels. This handbook attempts to produce comprehensive and compatible sets of standardized terminology for use in education management for financial reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and 17:92

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 20:

Bulletin 1929 may be viewed in its entirety at the Office of the State Register, 1051 North Third Street, Capitol Annex, Room 512, Baton Rouge, LA; at the Office of Finance and Management in the State Department of Education, or at the Office of the Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Interested persons may submit comments on the proposed policies/regulations until 4:30 p.m., September 7, 1994 to: Eileen Bickham, State 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 1929—Accounting and Governmental
Handbook (LAC 28:I.912)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The only estimated implementation cost is \$500 to print and disseminate the changes in Bulletin 1929.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Marlyn J. Langley
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

NORM Regulations (LAC 33:XV.1401-1420) (NE14)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2101 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Division Regulations, LAC 33:XV.Chapter 14(NE14).

The proposed changes in the rule are being made to clarify NORM contaminant levels for waste and/or land, to include: below 5 picocuries per gram is exempt; between 5 and 30 picocuries per gram may be treated/diluted at nonhazardous oilfield waste facilities (with some restrictions); between 30 and 200 picocuries per gram may be treated/diluted for reuse at specifically licensed nonhazardous oilfield waste facilities. The proposed rule states that if decontamination is

required, then decontamination shall be to 5 picocuries per gram (of radium).

The proposed rule raises the screening level from the current 25 microroentgens per hour above background to 50 microroentgens per hour including background. (The 50 microroentgen per hour exposure rate was the level in the original rules promulgated in 1989).

The proposed rule allows pipeyards to receive exempt quantities (assuming certain criteria are met). In addition, pipeyards which currently have contamination in excess of regulatory limits will be allowed to clean their facilities on a one-time basis.

The proposed rule allows on-site maintenance only if the radiation levels are below 2 millirem per hour.

The proposed rule clarifies the financial assurance requirements.

The proposed rule allows contaminated equipment to be recycled by specifically licensed smelters (provided certain criteria are met).

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

**Title 33
ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

**Chapter 14. Regulation and Licensing of Naturally
Occurring Radioactive Material (NORM)**

§1401. Purpose

The regulations in this Chapter establish radiation health and safety requirements for the possession, use, transfer, treatment, storage, recycling, and disposal of naturally occurring radioactive material (NORM) that does not include source, special nuclear, or by-product materials regulated pursuant to the licensing requirements in LAC 33:XV.Chapter 3. The requirements of this Chapter are in addition to, and not in substitution for, the applicable requirements of LAC 33:XV. Chapters 1, 3, 4, 10, 15, and 25.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:604 (June 1992), amended LR 20:

§1402. Scope

A. These regulations apply to any person who engages in waste generation, extraction, mining, beneficiating, processing, possession, use, transfer, treatment, transportation, recycling, or disposal of NORM in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans.

B. These regulations also apply to any material, equipment, or land which has been contaminated with technologically enhanced NORM.

C. The regulations in this Chapter address the introduction of NORM into materials or products in which neither the NORM nor the radiation emitted from the NORM is considered by the administrative authority to be advantageous to the materials or products. The manufacture and distribution of materials or products containing NORM in which the

NORM and/or its associated radiation(s) is considered to be an advantageous attribute are licensed under the provisions of LAC 33:XV.Chapter 3.

D. This Chapter also addresses waste generation, waste management, decontamination, treatment, transfer, storage, and disposal of NORM and NORM waste with regard to both inactive and active sites and facilities involved in storage and/or cleaning of tubular goods and contaminated equipment.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:604 (June 1992), amended LR 20:

§1403. Definitions

In addition to the definitions specified in Chapter 1, the following definitions apply:

Advantageous Attribute or Advantageous to the Material or Product—the radioactivity of the product is necessary to the use of the product.

Beneficiating—the processing of materials or products for the purpose of altering the chemical or physical properties to improve the quality, purity, or assay of a desired product or material.

Confirmatory Survey—a survey of potentially contaminated land, equipment, or facilities in order to establish, with reasonable certainty, the absence or magnitude of NORM contamination.

Container—any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled. This does not include tubular goods or drill pipe for posting purposes under these regulations.

Decontamination—the act of removing regulated NORM to reduce levels of radiation.

Disposal—the discharge, injection, or placing of regulated NORM into or on land so that such material is isolated from the biosphere inhabited by man and containing his food chain.

Equipment—any apparatus associated with the potential for or actual enhancement of NORM. Examples include, but are not limited to, tubular goods, piping, vessels, wellheads, separators, and condensers.

Location—NORM contaminated site(s), such as a commingling facility, a wellhead, a tank battery, any other type of production facility for oil or gas, a warehouse, or other type of NORM storage area for equipment or drums, pipeline, land, or pipeyard. A location may contain several sites.

Naturally Occurring Radioactive Material (NORM)—any nuclide that is radioactive in its natural physical state (i.e., not man-made), but not including source, by-product, or special nuclear material.

NORM Waste—the radioactive residue from any operation where the purpose is to remove NORM from soil, materials, or equipment.

On-site Maintenance—any activity involving a site or equipment that subjects an individual to potential inhalation or ingestion of NORM. This includes, but is not limited to, performing maintenance on vessels, tanks, tubular goods, or water treatment systems, or the clearing of pipe lines to

maintain oil and gas production.

Pile—any non-containerized accumulation of solid, nonflowing NORM waste.

Product—anything produced, made, manufactured, refined, or beneficiated.

Recycling—a process by which materials that have served their intended use are collected, separated, or processed and returned to use in the form of raw materials in the production of new products. Recycling shall not include the use of a material in a manner that constitutes disposal.

Site—any part of a location, land area (e.g., well site, pipeyard, scrapyards, production pit, treater/disposal facility, landfarm, landfill), equipment (each wellhead, each tank, each vessel, each separator, or any other apparatus associated with a process that has technologically enhanced naturally occurring radioactive material) or other appurtenances in a facility that contain technologically enhanced NORM, both active and inactive.

Storage—the containment of NORM waste in such a manner as not to constitute disposal of NORM waste.

Tank—a stationary device designed to contain an accumulation of NORM waste that is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) that provide structural support and integrity.

Technologically Enhanced Natural Radioactive Material (hereinafter referred to as TENR)—means natural sources of radiation which would not normally appear without some technological activity not expressly designed to produce radiation.

Temporary Jobsite—any location where licensed services are performed other than the location(s) listed in a specific license.

Treatment—any method, technique, or process designed to change the physical or radiological character or composition of any NORM or NORM waste so as to render it less radioactive, safer for transport, amenable for recovery, amenable for storage, reduced in volume, or changed in concentration.

Unrestricted Use—any use that does not have controls in place to protect an individual member of the public from exposure to radiation and radioactive material.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:604 (June 1992), amended LR 20:

§1404. Exemptions

A. NORM, NORM waste, and NORM contaminated material are exempt from the requirements of this Chapter if they contain, or are contaminated at, concentrations of:

1. five picocuries per gram or less of radium-226 or radium-228, above background; or

2. 150 picocuries per gram of any other NORM radionuclide, provided that these concentrations are not exceeded at any time.

B. Equipment, which contains NORM, is exempt from the requirements of this Chapter, except LAC 33:XV.1410, if the maximum radiation exposure level does not exceed 50

microrentgens per hour at any accessible point.

C. Except as provided in LAC 33:XV.1408, 1410, and 1417, land is exempt from the requirements of this Chapter if it contains material at concentrations less than the limits specified below, in samples averaged over any 100 square meters with no single non-composited sample to exceed 60 picocuries per gram of soil:

1. five picocuries per gram or less of radium-226 or radium-228, above background, averaged over the first 15 centimeters, and 15 picocuries per gram above background averaged over each subsequent 15-centimeter-thick layer of soil; or

2. 30 picocuries per gram or less of radium-226 or radium-228, averaged over 15-centimeter-depth increments, provided the total effective dose equivalent (from the contaminated land) to individual members of the public (continually present) does not exceed 0.1 rem (1mSv) in a year.

D. The division may on a case by case basis approve alternate limits or measurement procedures for an exemption under LAC 33:XV:1404.A, B, or C.

E. Persons who receive source material, as authorized under the general license in LAC 33:XV.321.A, and products or materials containing NORM, distributed in accordance with a specific license issued by the division or an equivalent license issued by another licensing state, are exempt from the requirements of this Chapter.

F. Persons who receive, possess, store, use, process, transfer, sell, manufacture, distribute, recycle, or dispose of raw materials, intermediates, process streams, products, by-products (including bauxite refinery and phosphogypsum recycle/reuse raw materials and products), and wastes related to the production of bauxite refinery and phosphate fertilizer materials, products, and by-products are exempt from the requirements of this Chapter.

G. The manufacturing, distribution, use, transportation, recycling, and disposal of the following products/materials are exempt from the requirements of this Chapter:

1. potassium and potassium compounds that have not been isotopically enriched in the radionuclide K-40;

2. materials used for building construction, industrial processes, metal casings, and abrasive cleaning if the NORM content of such material has not been technologically enhanced; and

3. by-products from fossil fuel combustion (bottom ash, fly ash, and flue-gas emission control by-products).

H. The wholesale and retail distribution (including custom blending), possession, use, and transportation of the following products/materials are exempt from the requirements of this Chapter:

1. phosphate and potash fertilizer;

2. phosphogypsum for agricultural uses;

3. materials used for building construction if such materials contain NORM that has not been technologically enhanced;

4. natural gas and natural gas products; and

5. crude oil and crude oil products.

I. Produced waters from crude oil and natural gas production are exempt from the requirements of this

Chapter. Regulations concerning produced waters are referenced in LAC 33:IX.Chapter 7.

J. Tanks, vessels, containers, storage facilities, and distribution lines in refineries and petrochemical and gas plants contaminated with NORM are not exempt from the requirements of this Chapter.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 20:

§1405. Reserved

§1406. Radiation Survey Instruments

A. Instrumentation utilized to determine exposure rates pursuant to this Chapter shall be capable of measuring 1 microrentgen per hour through at least 500 microrentgens per hour.

B. Each radiation survey instrument shall be calibrated:

1. at intervals not to exceed one year and after each instrument servicing;

2. at energies and radiation levels appropriate for use; and

3. so that accuracy within plus or minus 20 percent of the true radiation level can be demonstrated on each scale.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 20:

§1407. Surveys

A. A confirmatory survey for each potentially contaminated site shall be performed within 90 days of the effective date of these regulations.

B. Followup confirmatory surveys shall be performed whenever activities at the site could result in a possible change in the regulatory status of the site.

C. Upon completion of survey(s) of equipment and facilities that verify that NORM regulated by this Chapter is not present, an individual may submit documentation to the division indicating that the equipment and facilities are exempt from the requirements of this Chapter pursuant to LAC 33:XV.1404.

D. Any survey submitted to the division must include the qualifications of the individual performing the survey. Individuals performing and documenting the surveys shall demonstrate understanding of the subjects outlined in Appendix A of this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:

§1408. General License

A. A general license is hereby issued to mine, extract, receive, possess, own, use, treat, store, recycle, and transfer NORM not exempt in LAC 33:XV.1404 without regard to quantity.

1. Persons subject to the general license shall notify the

division by filing the Notification of NORM Form (Form RPD-36) with the division.

2. A confirmatory survey showing the presence of NORM in excess of exempt levels provided in LAC 33:XV.1404 shall be submitted the division.

3. Each general licensee performing on-site maintenance on contaminated facilities, sites, or equipment or the excavation of land shall establish and submit to the division for approval written procedures as outlined in Appendix B of this chapter to ensure worker protection and for the survey (or screening) of sites, equipment, and components.

4. On-site maintenance is authorized only if the maximum radiation level does not exceed two millirem per hour at any accessible point in the work area.

5. Each general licensee shall establish and submit to the division for approval written procedures for the survey (or screening) of sites and equipment to ensure that NORM is not released for unrestricted use except under the provisions of LAC 33:XV.1417.

6. Storage

a. A general licensee is authorized to store NORM waste in a container for 90 days from the date of generation. After such time, the NORM waste must be transferred to an authorized facility for purposes of treatment, storage, or disposal.

b. To store NORM waste in a container for greater than 90 days from the date of generation, a general licensee must first submit a written NORM waste management plan to the division and receive authorization from the division.

7. Surface equipment that has been removed from service and is not employed for its designated function, excluding wellheads, shall be decontaminated to the limits specified in LAC 33:XV.1404, or treated or disposed of in accordance with LAC 33:XV.1412 within one year from the date the equipment was removed from service. This requirement does not apply to equipment that remains subsurface and is associated with production wells or injection wells classified as having future utility.

B. This general license does not authorize the manufacturing or distribution of products containing NORM, or the landfarming of NORM, or the transfer from one general licensee to another general licensee of NORM with levels or concentrations greater than those specified in LAC 33:XV.1404.A for purposes of decontamination or disposal.

C. The decontamination for release for unrestricted use of contaminated facilities, sites, or equipment shall only be performed by persons specifically licensed by the division, the U.S. Nuclear Regulatory Commission, another agreement state, or another licensing state to conduct such work or as otherwise authorized by the division.

D. The general license provided in this section does not authorize the cleaning of tubular goods and equipment in connection with a pipe yard, storage yard, or equipment yard.

E. Facilities, equipment, and sites contaminated with NORM in excess of the levels set forth in LAC 33:XV.1404.A shall not be released for unrestricted use.

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

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 20:

§1409. Reserved

§1410. General Licenses: Pipe Yards, Storage Yards, or Production Equipment Yards

A. A general license is hereby issued for pipe yards or storage yards or production equipment yards to receive, possess, process, and clean tubular goods or equipment which are contaminated with scale or residue but do not exceed 50 microrentgens per hour, provided:

1. the department is notified within 90 days of the effective date of these regulations of the intention of the facility to receive tubular goods or equipment which are contaminated with scale or residue but do not exceed 50 microrentgens per hour;

2. a program is developed and submitted to the division for approval to screen incoming shipments to ensure that the 50- microrentgens-per-hour limit is not exceeded;

3. a program is developed and submitted to the division for approval to ensure worker protection, as outlined in Appendix B of this Chapter;

4. a program is developed and submitted to the division for approval to control soil contamination;

5. a program is developed and submitted to the division for approval to prevent release of NORM contamination beyond the site boundary;

6. a program is developed and submitted to the division for approval for surveying and decontamination to ensure that soil contamination is not allowed to exceed 200 picocuries per gram of radium-226 or radium-228 or 50 microrentgens per hour at one meter from the soil at any time, and that NORM contamination does not go beyond the site boundary;

7. a plan for cleanup is submitted to the division within 180 days of the effective date of these regulations for existing facilities that have NORM contaminated soil in excess of the limit in LAC 33:XV.1410.A.6. The plan shall include a schedule for cleanup that is to be approved by the division. The general licensee may include in this plan an application to the division for a one time authorization to perform this cleanup or use a specific licensee; and

8. before releasing the property for unrestricted use, the soil is decontaminated to a level not to exceed five picocuries per gram above background of radium-226 or radium-228 unless other limits are approved by the department.

B. A specific license pursuant to LAC 33:XV.Chapter 3 is required for the decontamination of tubular goods or equipment that exceed the 50-microrentgens-per-hour limit.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:605 (June 1992), amended LR 20:

§1411. Protection of Workers During Operations

Each person subject to the general license requirements in LAC 33:XV.1408 or 1410 or a specific license shall conduct operations in compliance with each of the standards for radiation protection set forth in LAC 33:XV.Chapters 4 and 10.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), amended LR 20:

§1412. Treatment, Transfer, and Disposal

A. Each person subject to the general license requirements in LAC 33:XV.1408 or subject to a specific license shall manage, treat, and or dispose of wastes containing NORM in accordance with:

1. any applicable requirement of LAC 33:XV. Chapter 4; and

2. any applicable requirement of the U.S. Environmental Protection Agency for disposal of such wastes.

B. Treatment or disposal of NORM waste shall be in accordance with one of the following:

1. by transfer of the wastes to a land disposal facility licensed by the division, the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state;

2. by alternate methods authorized by the division in writing upon application or upon the division's initiative. The application for alternative methods of disposal shall be submitted to the division for approval;

3. for non-hazardous oilfield waste containing NORM at concentrations not exceeding 30 picocuries per gram of radium-226 or radium-228 by transfer to a non-hazardous oilfield waste commercial facility regulated by the Department of Natural Resources for treatment if the following are met:

a. dilution in the end product after treatment does not exceed five picocuries per gram above background of radium-226 or radium-228;

b. the non-hazardous oilfield waste commercial facility has a program for screening incoming shipments to ensure that the 30 picocuries per gram limit of radium-226 or radium-228 is not exceeded; and

c. the Department of Natural Resources (DNR) approves; or

4. for non-hazardous oilfield waste containing concentrations of NORM in excess of the limits in LAC 33:XV.1404.A.1, but not exceeding 200 picocuries per gram of radium-226 or radium-228 by treatment at non-hazardous oilfield waste commercial facilities specifically licensed by the division for such purposes. Regulation of such sites is set forth in a memorandum of understanding between the department and DNR and contained in Appendix C of this Chapter.

C. Intrastate transfers of waste containing NORM for disposal shall be made only to persons authorized by the division in writing to receive such waste. It is the responsibility of the transferor to ascertain that the recipient possesses specific authorization prior to transfer.

D. The melting of scrap metal may be authorized by a specific license if the dilution of the NORM in the end products or melt by-products is sufficient to reduce the concentrations of radium-226 or radium-228 to less than five picocuries per gram.

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

HISTORICAL NOTE: Repealed and repromulgated by the

Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:606 (June 1992), amended LR 20:

§1413. Reserved

§1414. Containers

A. NORM and NORM waste shall be kept in a container that is in good or safe condition.

B. The licensee shall use a container made of, or lined with, materials that will not react with, or be incompatible with, the NORM waste to be stored so that the ability of the container to contain the waste is not impaired or compromised.

C. A container holding NORM waste shall always be closed and sealed during storage, except when it is necessary to add or remove waste.

D. A container holding NORM waste shall not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

E. At least quarterly, the licensee shall inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system. Records of these inspections shall be made.

F. All containers shall be stacked in such a fashion that each container identification label can be read from the access aisle or area. Labeling of containers shall be in compliance with LAC:XV. 453.

G. Records of inspections pursuant to LAC 33:XV.1414.E shall be maintained by the licensee for inspection by the division for five years.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 20:

§1416. Inspections of Storage Tanks Containing NORM or NORM Waste

As part of an inspection program the licensee shall develop a schedule and procedure for assessing the condition of each tank containing NORM or NORM waste. The schedule and procedure must be adequate to detect cracks, leaks, corrosion, and erosion that may lead to cracks, leaks, or wall thinning to less than the required thickness. Procedures for emptying a tank to allow entry, procedures for personnel protection, and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 20:

§1417. Release for Unrestricted Use

A. Once facilities, equipment or sites exceed the level of contamination provided in LAC 33:XV.1404 and are subject to the provisions of this Chapter, they shall not be released for

unrestricted use until they have been decontaminated in accordance with this Section.

1. For general or specific licensees that have an area or soil with contamination above the limits of LAC 33:XV.1404 and soil decontamination must be performed, the decontamination of soil shall be to five picocuries per gram above background of radium 226 or radium-228.

2. In all other cases, the decontamination shall reduce radiation levels below the exemption levels provided in LAC 33:XV.1404.

B. If closure activities involve construction, prior approval by the Ground Water Protection Division must be attached as part of the application addressing the certification of the groundwater quality. All pits, ponds, and lagoons must comply with departmental regulations and/or policies dealing with groundwater quality.

C. Unless otherwise directed in writing by the division, in order to release property for unrestricted use, a licensee shall submit a plan for the decontamination to the division for approval. Upon approval, the licensee shall implement the plan in accordance with such approval.

1. Information contained in previous applications, statements, or reports filed with the division under the license may be incorporated by reference if the references are clear and specific.

2. The plan shall provide for a confirmatory survey submitted to the division for review.

3. The licensee shall provide notice to the division of completion of decontamination. Upon proper completion of the plan and notice to the division, the division shall acknowledge such completion.

4. The site shall not be released for unrestricted use until the acknowledgement in LAC 33:XV.1417.C.3 is issued.

D. The closure application shall include specific details of the NORM site closure plan including each of the following:

1. the results of tests, experiments, or any other analyses relating to backfill of excavated areas, closure and sealing;

2. any proposed revision of plans for:
a. decontamination and/or dismantlement of surface facilities,
b. backfilling of excavated areas, and/or
c. stabilization of the NORM site for post-closure care;
and

3. any new information regarding the environmental impact of closure activities and long-term performance of the NORM site.

E. The licensee shall monitor the NORM site and perform necessary maintenance and repairs at the site until the acknowledgement in LAC 33:XV.1417.C.3 is issued.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:607 (June 1992), amended LR 20:

§1418. NORM Manifests

A. Each shipment of NORM waste and NORM contaminated equipment to a facility specifically licensed for treatment, storage, or disposal shall be accompanied by a manifest.

B. The manifest form must be obtained from the division and must consist of, at a minimum, the number of copies that will provide the licensee, each transporter, and the operator of the designated facility with one copy each for their records with the remaining copies to be returned to the licensee and the other appropriate parties.

C. General Requirements

1. A licensee who transports, or offers for transportation, NORM waste and NORM contaminated equipment to a facility specifically licensed for treatment, storage, or disposal must prepare and sign sufficient copies of a manifest before transporting the NORM off-site.

2. A licensee must designate on the manifest one facility which is permitted to handle the NORM described on the manifest.

3. If the transporter is unable to deliver the NORM to the designated facility, the licensee must either designate another facility or instruct the transporter to return the NORM.

4. Licensees must provide a statement concerning the nature of the material and general guidelines for an emergency situation involving this waste to accompany the manifest on shipments and loads.

5. If the NORM is to be transported out-of-state, the licensee will be responsible for receiving the completed, signed manifest from the out-of-state treatment, storage, or disposal facility.

6. Licensees must get written confirmation of acceptability of the NORM from the operator of the treatment, storage, or disposal facility before shipping the NORM. The confirmation must be maintained by the specifically licensed treatment, storage, or disposal facility as part of the facility manifest records.

7. Licensees are required to report to the division any irregularities between the NORM actually received and the NORM described on the manifest, or any other irregularities, within 15 days.

D. Required Information

1. The manifest must contain all of the following information prior to leaving the licensee's site:

a. a state manifest document which shall be obtained from this division;

b. the licensee's name, mailing address, telephone number, and NORM general license number;

c. the name, Interstate Commerce Commission number (ICC #), and telephone number of each transporter;

d. the name, address, telephone number, and NORM specific license number of the designated facility, if applicable;

e. the description of the waste(s) (e.g., scale, soil, sludge) or contaminated equipment (e.g., heater treater, tubular goods).

f. the total quantity of all NORM by units of weight in tons or pounds, and the type and number of containers (metal drums, barrels, kegs, fiberboard or plastic drums, cargo tanks, tank trucks, dump trucks, metal boxes, cartons, cases, burlap bags, paper bags, plastic bags, wooden drums, tanks portable, tank cars, cylinders, wooden boxes, and fiber or plastic boxes) as loaded into or onto the transport vehicle. If the weight is unknown, the volume and estimated weight should be provided.

2. The certification that appears on the manifest must be read, signed, and dated by the licensee as follows: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport according to applicable international and national government regulations."

E. Use of the Manifest

1. The licensee must:
 - a. sign and date the manifest certification by hand when the initial transporter accepts the shipment;
 - b. obtain the handwritten signature of the initial transporter and date of acceptance of the manifest; and
 - c. retain one copy.
2. The licensee must give the transporter the remaining copies of the manifest.
3. The licensee must receive the fully signed copy of the manifest from the designated facility within 45 days from the delivery to the initial transporter. In the event the licensee does not receive the signed manifest timely, the licensee shall:
 - a. notify the division in writing within seven days;
 - b. conduct an investigation into the reasons why the manifest was not received;
 - c. report the results of the investigation to the division.

F. Transporters

1. A transporter may not accept NORM for transportation unless the NORM is accompanied by sufficient copies of a manifest properly prepared, with each copy signed and dated by the licensee and each previous transporter in accordance with these regulations.
2. Before transporting the NORM, the transporter must sign and date each copy of the manifest acknowledging acceptance of the NORM from the licensee or previous transporter and return a signed copy to the licensee or previous transporter.
3. A transporter who delivers NORM to another transporter or to the designated storage or disposal facility shall:

- a. obtain the date and signature of the accepting transporter or designated storage or disposal facility;
- b. retain one copy of the manifest signed and dated by the licensee, all previous transporters, himself, and the next transporter or designated facility;
- c. give the remaining copies of the manifest to the accepting transporter or designated facility.

G. Designated Facility. The designated facility should fill out his portion, retain a copy for his files, submit the original to the division, and send all remaining copies to the licensee no later than 15 days after delivery of the NORM waste.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:608 (June 1992), amended LR 20:

§1419. Financial Responsibility of Transporters

A. Each transporter of NORM, NORM waste, or NORM contaminated equipment to a licensee for licensed long-term storage, treatment, or disposal shall acquire continuous

insurance coverage or other financial responsibility for all of its transport vehicles regulated by these regulations at a minimum coverage of \$300,000 per vehicle public liability and \$200,000 per vehicle damage.

B. The financial responsibility required by this Section may be established by any one or a combination of the following:

1. evidence of liability insurance;
2. self-insurance with a level not more than 20 percent of equity; or
3. other evidence of financial responsibility deemed acceptable by the secretary of the Department of Public Safety and Corrections or its successor agency.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 20:

§1420. Financial Security Requirements for NORM Treaters or Storers

A. Each general licensee that stores NORM or NORM waste for greater than 90 days, and each specific licensee that leases or owns a physical location and that physically or chemically treats or stores NORM or NORM waste shall post with the division financial security to ensure the protection of the public health and safety and the environment in the event of abandonment, default, or other inability or unwillingness of the licensee to meet the requirements of the Act and these rules. Financial security shall:

1. name the division as beneficiary with a bond issued by a fidelity or surety company authorized to do business in Louisiana, a personal bond secured by such collateral as the office deems satisfactory, a cash bond, a liability endorsement, or a letter of credit. The amount of the bond, liability endorsement, or letter of credit shall be equal to or greater than the amount of the security required. Any security must be available in Louisiana and subject to judicial process and execution in the event required for the purposes set forth in this Section, and be continuous for the term of the license;
2. be in an amount based upon a division-approved cost estimates plan for decontamination, decommissioning, restoration, and reclamation of buildings, equipment, and the site to levels that would allow unrestricted use;
3. be established concurrent with the application or plan required by LAC 33:XV.1408.A.6.b to ensure that sufficient funds will be available to carry out the decontamination and decommissioning of the facility; and
4. be for the duration of the license and for a period coincident with the licensee's responsibility under the Act and these rules.

B. Pipe yards, storage yards, production equipment yards, or other facilities which receive, possess, and clean tubular goods which are contaminated with scale or residue shall meet the requirements of LAC 33:XV.1420.A.

C. On the effective date of these rules, current licenses in effect may continue, provided that the required security arrangements are submitted to the division within 120 days.

D. No later than 90 days after the licensee notifies the division that decontamination and decommissioning have been

completed, the division shall determine if these have been conducted in accordance with these rules. If the division finds that the requirements have been met, the secretary or his designee shall direct the return or release of the licensee's security in full plus any accumulated interest within 14 days. If the division finds that the requirements have not been met, the division will notify the licensee of the steps necessary for compliance.

E. This Section shall be applicable until such time that a NORM Trust Fund or other instrument to accomplish these purposes may be established by the legislature.

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

HISTORICAL NOTE: Repealed and repromulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:609 (June 1992), amended LR 20:

Appendix A

SUBJECTS TO BE INCLUDED IN TRAINING COURSES FOR INDIVIDUALS PERFORMING NORM SURVEYS

The following outline describes the subjects that individuals must demonstrate competence in prior to being approved as a NORM surveyor.

- I. Fundamentals of Radiation Safety
 - A. Characteristics of radiation
 - B. Units of radiation dose and quantity of radioactivity
 - C. Levels of radiation from sources of radiation
 - D. Methods of minimizing radiation dose:
 1. working time;
 2. working distance;
 3. shielding;
 4. respiratory precautions;
 5. use of anti-contamination clothing.
- II. Radiation Detection of Instrumentation to Be Used
 - A. Use of radiation survey instruments:
 1. operation;
 2. calibration;
 3. limitations.
 - B. Survey techniques
 - C. Use of personnel-monitoring equipment
- III. The Requirements of Pertinent State Regulations

Appendix B

Detailed development of the following must be included in the required worker protection plan:

- I. The posting of signs pursuant to LAC 33:XV.451 and 1011 to inform personnel when they are entering a NORM contaminated area.
- II. Procedures to prevent eating, drinking, smoking, and chewing in areas where work is being performed on contaminated equipment or where contaminated soil is being handled.
- III. Procedures to avoid skin contact with NORM contaminated scale, solids, and sludges by the use of protective clothing such as gloves, coveralls, rubber boots, and eye protection.
- IV. Procedures to ensure that personnel will thoroughly wash body parts that may have been potentially in direct contact with NORM-contaminated materials before eating, drinking, smoking, or leaving the work area.

V. Procedures for whole body monitoring of personnel in restricted area including a description of the survey instrumentation used.

VI. Procedures to minimize the number of personnel in the contaminated area.

VII. Other operational procedures (i.e., openings on contaminated equipment or containers should be sealed when stored or handled, tubulars capped on both ends, etc.).

For operations that have the potential to produce NORM contaminated dusts (i.e., cutting, grinding, sand-blasting, welding, drilling, polishing, or handling soil) or when loose contamination is suspected, the following additional precautions shall be taken:

I. The use of a respirator appropriate for radioactive particulates shall be worn if required by LAC 33:XV.Chapter 4.

II. Safety glasses should be worn for eye protection.

III. Activities shall be conducted in well-ventilated areas to which access has been restricted.

IV. Ground covers should be utilized to the extent possible to contain contaminants and facilitate cleanup.

V. The need for personnel monitoring and bioassay shall be evaluated and provided if necessary.

In addition to the general guidance given above, there may be industrial operations such as vessel entry, dismantling of equipment, refurbishing of equipment, or transportation, which may require additional precautionary procedures which should be included in the worker protection procedures submitted to the division.

Appendix C

MEMORANDUM OF UNDERSTANDING BETWEEN
LOUISIANA DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION AND
LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF AIR QUALITY AND RADIATION PROTECTION
REGARDING
THE REGULATION OF NATURALLY OCCURRING RADIOACTIVE
MATERIAL AT COMMERCIAL OILFIELD WASTE TREATMENT
FACILITIES

WHEREAS, the Louisiana Department of Natural Resources, Office of Conservation (DNR/OC), is authorized by State law and regulations to control the permitting, operation, and closure of commercial non-hazardous oilfield waste (NOW) disposal facilities in Louisiana, and,

WHEREAS, the Louisiana Department of Environmental Quality (DEQ) is authorized by state law and regulations to control the management and disposal of naturally occurring radioactive material (NORM), and,

WHEREAS, certain types of NOW have been recognized as occasionally containing levels of NORM that may warrant protection of public health and the environment, and,

WHEREAS, it is in the public interest for both agencies to coordinate their resources in order to provide adequate protection of public health and the environment and to avoid duplicative regulatory efforts and unnecessary expenses to DNR/OC and DEQ, the regulated community and the citizens of this state.

THEREFORE, the following MEMORANDUM OF UNDERSTANDING is hereby adopted to outline the specific

responsibilities of each agency regarding the regulation of NORM treatment at commercial NOW facilities which are permitted and regulated under the jurisdiction of the Office of Conservation:

1. Commercial NOW facilities will be permitted to receive, and treat NORM in accordance with specific licenses issued by DEQ under LAC 33:XV.301 and 1401 et seq. Existing DNR/OC permits will be required to be amended according to the requirements of LAC 43:XIX.129.M. DNR/OC and DEQ will, to the extent possible, coordinate and/or combine efforts in the holding of any public hearings with regard to permitting commercial NOW/NORM facilities.

2. Commercial NOW/NORM facilities (DEQ specific licenses) may be authorized to receive and treat NORM contaminated with concentrations of up to 200 picocuries per gram radium-226 or radium-228 and daughter products, provided all operational procedures are adhered to and a satisfactory history of compliance is established.

3. In addition to standards for documentation of compliance with the reuse criteria of LAC 43:XIX.129.M, treated NOW/NORM which is offered for reuse must also meet the requirements of DEQ.

4. Only written requests will be considered by DNR/OC and DEQ for reuse of treated NOW/NORM. Documentation of compliance with regulatory requirements must be provided with each request. Specific written approval from each agency must be obtained prior to removal of material from a treatment system.

5. Commercial NOW/NORM treatment facilities will not be permitted to mix and treat non-NORM (NOW) waste with NORM waste.

6. DEQ will be required to notify DNR/OC, within 24 hours, of planned/scheduled inspections of a commercial NOW/NORM treatment facilities.

7. When violations are documented, enforcement actions will be coordinated between DNR/OC and DEQ to determine the proper agency for issuance of notices of violation, compliance orders, assessment of penalties or any other enforcement activity.

8. As deemed necessary, DNR/OC and DEQ will share monitoring information required to be submitted by permitted NOW/NORM treatment facilities.

This MEMORANDUM OF UNDERSTANDING is subject to revision or cancellation upon agreement of both parties.

A public hearing will be held on August 29, 1994, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate please contact David Hughes at the address given below or at (504)765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than Tuesday, September 6, 1994, at 4:30 p.m., to Patsy Deaville, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810 or to FAX number

(504)765-0486. Commentors should reference this proposed regulation by Log NE14.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: NORM Regulations**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect of this proposed rule on state or local governmental expenditures is anticipated.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No significant effect on state or local governmental revenue collections is anticipated. Although the screening level is being raised from the current 25 microroentgens per hour above background to 50 microroentgens per hour including background, no significant change in number of licensed NORM sites is anticipated.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The oil and gas production industry will incur some reduction in NORM disposal costs with the proposed rule's inclusion of additional NORM treatment/reuse/recycle options. Oilfield exploration and production waste contaminated with less than 30 picocuries per gram of NORM will be allowed to be sent to nonhazardous oilfield waste (NOW) facilities for reuse. Levels of contamination greater than 30 picocuries per gram but less than or equal to 200 picocuries per gram of NORM will be allowed to be sent to permitted NOW/NORM treatment/reuse facilities. Among the present NORM disposal options, these two options appear to be more cost-effective for the industry. However, it is not possible to accurately estimate the reduction of costs because the volume of NORM waste is unknown. Additionally, NORM contaminated equipment will be allowed to be recycled by specifically licensed foundries.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No significant effect of this proposed rule on competition and employment is anticipated.

Gustave Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

**Administrator-in-Training Time Limitation
(LAC 46:XLIX.711)**

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators. This is a technical change only, which clarifies present rule.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility
Administrators**

**Chapter 7. Administrator-in-Training (AIT)
§711. Time Limitation**

* * *

Failure to begin the six-month AIT within one year of the date an applicant passes the licensing examination results in loss of all accomplishments and fees, unless otherwise authorized by the board. An applicant completing his AIT program before taking his examinations must take the first examinations offered following completion of the AIT, unless otherwise authorized by the board.

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

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended LR 20:

Interested persons may submit written comments through July 30, 1994 to Van Weems, Executive Director, Board of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van Weems
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Administrator-in-Training Time Limitations

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no costs or savings to state or local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections of state or local government.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There will be no added costs or economic benefits to applicants for licensing. The proposed change will clarify current procedures.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition or employment.

Van Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

License Form (LAC 46:XLIX.1101)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLIX. Board of Examiners of Nursing Facility
Administrators**

**Chapter 11. Licenses
§1101. License Form**

A. ...

1. Upon completion of his AIT program an applicant who has passed his examinations shall remit the final report and the Certificate of Completion immediately. He shall complete all other requirements and be licensed within 35 days of completion of the AIT, unless otherwise authorized by the board.

2. An applicant who completes his AIT program before passing the examinations shall remit the final report and Certificate of Completion immediately, and shall undergo any required oral examination as scheduled by the board. Within 10 working days after receiving notice he has passed his examinations, he shall remit his Initial Registration form with fees, unless otherwise authorized by the board.

B. Any license issued by the board shall be under the signature of the chairman and the executive director of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, repealed and promulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended LR 20:

Interested persons may submit written comments through July 30, 1994 to Van Weems, Executive Director, Board of

Van Weems
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: License Form**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local government.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no added costs or economic benefits to applicants for licensing. The proposed change will clarify current procedures.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition or employment.

Van Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Massage Therapy**

Operating Rules (LAC 46:XLV.Chapters 1-63)

(Editor's Note: The following notice of intent, which appeared on pages 702-703 of the June, 1994 Louisiana Register, incorrectly stated that the adoption of rules was proposed by the Board of Physical Therapy Examiners. The correct agency proposing these rules is the Board of Massage Therapy, therefore, the notice of intent is being republished for clarification.)

The Department of Health and Hospitals, Board of Massage Therapy, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby proposes to adopt rules relating to the practice of massage therapy.

The full text of the proposed rules may be viewed at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge LA. Please reference document 9406#096 when requesting these rules.

Interested persons may submit written comments by July 22, 1994 to Mary L. Donker, Box 13427, New Orleans, LA 70185. She is responsible for responding to the inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held at 10:30 a.m., July 29, 1994, in the first floor auditorium, Department of Transportation and Development Building, 1201 Capital Access Road, Baton Rouge, LA 70802. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Mary L. Donker
Chair

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Operating Rules**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated costs for implementation of the proposed rules are \$8,601 in FY 93-94, \$51,973 in FY 94-95 and \$52,327 in FY 95-96. These costs include salaries for a part-time clerical position and a full-time investigator/inspector.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated revenues generated from fees paid by massage therapists and massage establishments are \$7,500 for FY 93-94, \$55,400 for FY 94-95 and \$53,498 for FY 95-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The costs for licensing affect those applying for licensure. The exam fees are \$75, annual license fees are \$50 and establishment annual fees are \$75.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There has been an increase from only one massage school to four massage schools in this state since the passage of the Massage Therapists and Massage Establishment Act. With these additions there has been an increase from 50 to over 100 new graduates. Of those graduating an estimated 66 percent will enter into private practice or work in a health spa, chiropractor's office, or in a beauty salon or hotel.

Mary L. Donker
Chair

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

License Renewal Late Charge (LAC 46:LXXXV.505)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq., notice is hereby given that the Louisiana Board of Veterinary Medicine intends to amend LAC 46:LXXXV.505.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXXV. Veterinarians

Chapter 5. Fees

§505. License Renewal Late Charges

Any license renewed after the published expiration date stated in R.S. 37:1524 shall be subject to an additional charge of \$100 as a late fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 and 1520(A).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1429 (November 1993), amended LR 20:

Interested parties may submit written comments to Vikki Riggle, Executive Director, Louisiana Board of Veterinary Medicine, 200 Lafayette Street, Suite 604, Baton Rouge, LA 70801-1203. Comments will be accepted through the close of business on August 10, 1994.

A public hearing on the proposed changes will be held on August 26, 1994 at the office of the Louisiana Board of Veterinary Medicine at 10 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Vikki L. Riggle
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

RULE TITLE: License Renewal Late Charge

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
No implementation costs to any agency are anticipated to result from the proposed rule.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
State agency (Louisiana Board of Veterinary Medicine) anticipates an additional revenue collection of approximately \$2,500.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
Licensees who do not submit complete renewals within 90-day renewal period will pay an increased late fee of \$100 instead of the \$25 fee previously charged.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
No impact is anticipated.

Vikki Riggle
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Office of Management and Finance

Health Services Provider Fee Repayment Schedule

The Department of Health and Hospitals, Office of Management and Finance, proposes to adopt the following rule in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. In March, 1993, the Department of Health and Hospitals adopted the final rule (*Louisiana Register*, Vol. 19, No. 3, pages 347-348), implementing R.S. 46:2601-2605, which imposed a fee on the providers of certain health care services as authorized under P.L. 102-234.

Certain health services providers are delinquent in the payment of the provider fees imposed. In order to implement a uniform repayment schedule which will help assure the collection of fees necessary to fund indigent care services in Louisiana, without creating undue hardship which might cause a provider to go out of business, the department proposes to implement the following repayment schedule.

There is no fiscal impact projected from implementation of this rule.

Proposed Rule

I. If the provider of health services is delinquent in payment of the provider fees and if the provider is enrolled as a Medicaid provider:

A. If the delinquent provider fee amount including interest and penalties is equal to or less than 20 percent of the Medicaid check to be issued, then the total amount will be deducted from the Medicaid reimbursement check.

B. If the delinquent provider fee amount including interest and penalties is more than 20 percent of the Medicaid check to be issued:

1. Either 10 percent of the total amount owed, or 20 percent of the amount of the check, whichever is lesser, will be deducted from each Medicaid reimbursement check. Once the amount owed is equal to or less than 20 percent of the check, the owed amount will be deducted from the next check.

2. If the amount owed is equal to or exceeds \$100,000, then 10 percent of the total amount owed will be deducted from the monthly Medicaid reimbursement check.

3. The health services provider must agree that during the period of time the arrears is being collected no additional delinquency will occur. If the provider becomes further delinquent, the department reserves the right to collect immediately the full balance due.

II. If the health services provider is not enrolled as a Medicaid provider and is delinquent in payment of the provider fees:

A. The provider must agree that during the time period the amount in arrears is being collected no additional delinquency will occur. If the provider becomes further delinquent, the department reserves the right and intends to collect immediately the full balance due.

B. The provider shall agree to pay monthly 10 percent of the total amount owed, until the full arrears balance is less

than 20 percent of the original amount, and to pay in the next month the full balance owed.

C. The department may require, and the provider must agree, that the provider execute a promissory note and any other documents to secure the note.

D. The department may avail itself of any appropriate judicial remedy.

Interested persons may submit written comments on the proposed rule until 4:30 p.m., August 24, 1994, to the following address: H. K. Sweeney, Box 629, Baton Rouge, LA 70821-0629.

A public hearing on this proposed rule will be held on Tuesday, August 23, 1994 in the Department of Transportation and Development Auditorium, First Floor, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Health Services Provider Fee
Repayment Schedule**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No implementation costs are anticipated as a result of implementation.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule will not generate additional revenues in excess of amounts currently projected. It is estimated that provider fee payments are currently approximately \$2.5 million in arrears. The proposed rule will expedite collection of these late payments.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

Health Care Providers who owe delinquent provider fees would be affected. The proposed schedule will help assure collection of fees without creating a hardship which might cause a provider to go out of business.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The proposed schedule might help assure that a health care provider does not go out of business as a result of being required to pay a large delinquent amount at one time. This may help ensure some employment opportunities.

Charles L. Castille
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Hospital Specialty Units—Standards for Payment

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

Hospital reimbursement policy has permitted that services delivered in certain resource-intensive hospital units, neonatal, pediatric, burn and transplant units be "carved out" for reimbursement purposes. This procedure allowed the reimbursement of these services to be made outside the TEFRA cost per discharge limitation in order to ensure that Medicaid beneficiaries are able to obtain these services in state. The hospital prospective payment methodology rule effective July 1, 1994 continues this cost identification process through the use of a peer grouping of these units wherein the provision of appropriate facilities, equipment and personnel essential for the effective management of the patient groups involved are recognized. This rule also includes the criteria for the inclusion of such specialized units in the appropriate peer grouping. In conjunction with this rule the bureau has adopted the following rule entitled "Standards for Payment for Hospital Specialty Units" which will be utilized by the health standards sections to determine the hospital's compliance with the criteria established for these units. The fiscal and economic impact statement of this notice includes the cost projections (referenced) for reimbursing services in these specialty units to Medicaid recipients which have already been included in the reimbursement costs analyses completed for the hospital prospective payment methodology rule. In addition this statement also contains the administrative cost specific to the adoption of these standards.

Copies of the full text of this notice of intent may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA. Please refer to Log 9407#073 when inquiring about this proposed rule. Copies are also available at the Department of Health and Hospitals at the address below and at parish Medicaid offices.

Interested persons may submit written comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing has been established for Tuesday, August 23, 1994, in the auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments orally or in writing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Standards for Payment
for Hospital Specialty Units**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will include the projected expenditures previously incorporated in the fiscal analyses for the Hospital Prospective Payment Methodology rule which indicate total expenditures of \$2,184,029 for SFY 1994-95, \$1,213,453 for SFY 1995-96 and \$1,040,044 for SFY 1996-97 for reimbursement for services to Medicaid recipients in the hospital specialty units, neonatal, burn, and transplant. The state share of these expenditures is \$597,332, \$331,879 and \$284,452 for these three years respectively. Costs specific to this rule for the cost of surveys and related activities for the certification of these units are \$44,000 for SFY 95 and \$22,000 for SFYs 1996 and 1997.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will increase federal revenue collections by \$44,000 in SFY 1994-95 and \$22,000 for SFYs 1996 and 1997 for the administrative costs incurred. The increased federal revenue for the services reimbursement is derived from estimates from the hospital prospective payment methodology rule and is anticipated as follows: \$1,586,697 for SFY 95; \$881,574 for SFY 96 and \$755,592 for SFY 97.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no economic benefits to recipients of these services but they will benefit from services provided in units maintained and monitored by standardized criteria for the specialty service involved. The department anticipates that hospitals currently providing these specialized services are in compliance with the guidelines and on-site surveys will be conducted to verify and document compliance and the specific level achieved by the specialty care unit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no known impact on competition and employment.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Nonemergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule in the Medicaid Program under the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. Due to extreme budget constraints placed upon all services in the Medicaid Program as a result of the unusual growth of the nonemergency transportation program, and

because of the continuing strain this program growth has placed on the state budget as a whole and because the agency and the legislature desire to provide medically necessary transportation to eligible Medicaid recipients who have no other means of accessing needed medical care using the most economical and efficient methods available, the agency has adopted changes in the nonemergency medical transportation program in concert with and under the direction and guidance of a specially appointed subcommittee of the Joint Legislative Committee on the Budget.

As a condition of receiving Medicaid funding the state must assure that transportation is available so that clients have access to necessary medical services. There is no requirement that transportation be provided to clients beyond the area in which the needed medical services are available. Free choices made by the client to utilize medical services in areas more distant from their homes than the closest available provider can not be interpreted to mean that there is an obligation for the Medicaid Program to fund the trip to the more distant provider. Therefore, with the effective date of this proposed rule, it will be the policy of the Medicaid Program to provide all nonemergency transportation for recipients to receive essential medically necessary care through the closest available provider. These changes are intended to be in addition to and not in lieu of current program regulations with the exception of the deletion of the \$5,000 bond requirement and the 90-day waiting period proviso. There are specific revisions of the automobile liability insurance coverage requirements included in this rule and any such revision supersedes previous rules on automobile liability coverage. General business liability insurance requirements are not changed in this rule.

All provisions of this rule shall be effective in the Orleans Region which is currently covered by a single profit provider under a freedom of choice waiver.

Proposed Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the following provisions in the Nonemergency Medical Transportation Program.

A. Coverage Requirements

1. The agency shall limit trips to 24 trips per year per recipient. This maximum is based on a two trip per month average utilization under the current program. The agency shall advise against and counsel recipients utilizing more than two trips per month. However due to the individual nature of need for medical care the service limit will not apply to monthly utilization.

2. Authorization for payment for transportation shall be issued only when the recipient provides proof and or a sworn statement that they have no other means of transportation on the date of the medical service. Family will be strongly encouraged to provide transportation at no cost to the recipient or the program.

3. When transportation is not available through family and friends, payment shall be authorized for the least costly means of transportation available. The least costly means of transportation shall be determined by the agency and shall be determined according to the following hierarchy: city or parish public transportation, family and friends who meet the

state license and insurance requirements and who are willing to enroll and be paid a flat rate for transportation, intrastate public conveyance (such as bus, train or plane), nonprofit agencies and organizations that provide a transportation service and who are enrolled in the Medicaid Program, and profit providers enrolled in the Medicaid Program. Recipients shall be allowed a choice of providers when the cost of two or more providers are equal.

4. Authorization for payment for transportation shall be issued only for transportation to the nearest available qualified provider of routine or specialty care within reasonable proximity to the individual. For purposes of this rule reasonable proximity shall be interpreted to mean the local city or town in which people of like living circumstance usually do their shopping and business activities. Recipients are encouraged to utilize medical providers of their choice in the community in which they reside when the recipient is also in need of Medicaid reimbursed transportation services. The fact that the agency will still pay for the actual medical service received outside of the community in which the recipient resides does not obligate the agency to reimburse for transportation to accommodate such a choice.

5. When the recipient chooses to utilize a medical provider outside of the community due to preference and/or history payment shall be authorized only for the cost of transportation to the nearest available provider.

6. The recipient shall be responsible for securing any agreements with family and friends, nonprofit or profit providers to make the longer trip for the payment authorized. If the recipient needs help with making such arrangements the agency will help but the help given will imply no obligation to provide a greater reimbursement.

7. When specialty treatment required by the recipient necessitates travel over extended distances authorization for payment for intrastate transportation shall be determined according to the following criteria. Intrastate transportation reimbursement shall be authorized when medical services are not available to the recipient in his community. Payment shall be authorized when free transportation is not available. The agency shall still authorize payment only for the most economical means of transportation. This may be through negotiating payment for transportation with family and or friends or through accessing the public conveyance systems such as bus, train or plane. The determination as to use of public conveyance shall be based on least cost, medical condition of the recipient to be transported, and availability of public conveyance.

8. When it has been verified that public conveyance is unavailable or inappropriate for intrastate transportation the recipient shall solicit transportation from family and friends. The agency will authorize payment to assist the family in accessing the needed medical services. Payment will be based on distance to be traveled to the nearest available similar or appropriate medical services, parking and tolls. In determining the amount of payment the cost of the least costly public conveyance shall used as the base cost to be paid to the family. Payment shall not be available for room and board or meals.

9. When no other means of transportation is available

through family and friends or public conveyance, the agency will solicit intra-state transportation through a nonprofit provider. The nonprofit provider will be paid a negotiated fee based the usual fee charged by the nonprofit provider, distance to be traveled and using the fees for public conveyance as a basis for determining the rate. If the nonprofit provider cannot accept the trip then the agency will negotiate with profit providers to access the least costly means of transportation available in the profit provider community. The negotiated fee shall be determined by distance to be traveled using the fees for public conveyance as a basis for determining the rate to be authorized.

10. Payment for nonemergency transportation to regular, predictable and continuing medical services, such as hemodialysis, chemotherapy or rehabilitation therapy, as determined by the agency, shall be a capitated payment.

11. The payment schedule for round trips to be utilized by the agency is as follows:

PROVIDER	SERVICE AUTHORIZED	AMOUNT
Public transit	Local transportation	Public rates
Family/friends	Local transportation	\$ 7.50/per trip
Nonprofit	Local transportation	\$ 12/recipient
Profit	Local transportation	\$ 15/recipient
Family/friends	Capitated (Urban)	\$ 75/month
	Capitated (Rural)	\$115/month
Profit	Capitated (Urban)	\$150/month
	Capitated (Rural)	\$200/month
Public conveyance	Intrastate	Public rates
Family/friends	Intrastate	Negotiated*/trip
Nonprofit	Intrastate	Negotiated*
Profit providers	Intrastate	Negotiated*

*Negotiated payments shall be flat fees determined by distance to be traveled using the fees for public conveyance as a basis for determining the rate to be authorized. Flat fees shall be predetermined for frequently traveled routes for the area and the predetermined rate shall be the rate paid to all family/friend providers or to all nonprofit and profit providers.

12. The agency will not authorize "same day" trips except in the instance of need for immediate medical care due to injury or illness. Same day trips will not be authorized for scheduled appointments for predictable or routine medical care. Clients will be asked to reschedule the appointment and make the subsequent request for transportation timely.

13. Payment will not be made for any additional person(s) who must accompany the recipient to the medical provider.

14. An individual provider will be reimbursed for a trip to the nearest facility that will meet the recipient's medical needs. However, the individual provider may transport the recipient to a more distant facility if the individual provider

will accept reimbursement from the bureau to the nearest facility and assumes responsibility for additional expenses incurred.

B. Enrollment Requirements:

1. For profit providers must comply with all state laws and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

2. Nonemergency medical transportation profit providers shall have a minimum liability insurance coverage of \$100,000 per person and \$300,000 per accident or a \$300,000 combined service limits policy. The liability policy shall cover (1) any autos, (2) hired autos, and (3) nonowned autos. Premiums shall be prepaid for a period of six months. Proof of prepaid insurance must be a true and correct copy of the policy issued by home office of the insurance company. Statements from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30 day cancellation notification clause. Proof of renewal must be received by the Medicaid agency no later than 48 hours prior to the end date of coverage. The policy must provide that the 30 day cancellation notification be issued to the bureau of Health Services Financing. Upon notice of cancellation or expiration of coverage the agency will immediately cancel the provider agreement for participation. The ending date of participation shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted. Providers who lose the right to participate due to lack of prepaid insurance may re-enroll in the Transportation Program and will be subject to all applicable enrollment procedures, policies, and fees for new providers.

3. The \$5,000 performance bond, letter of credit or cashier check is no longer required.

4. The 90 day waiting period in the enrollment process is no longer required.

5. Nonemergency Medical Transportation profit and nonprofit providers must have either a FAX machine or have the BLAST software capability as determined by the Medicaid Program based on the basis of volume of trips authorized to the provider.

6. As a condition of reimbursement for transporting Medicaid recipients to medical services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid drivers license. No special inspection by the Medicaid agency will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the Medicaid agency is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment that all three requirements are met. Family and friends shall be enrolled and shall be allowed to transport up to three specific Medicaid recipients or all members of one Medicaid assistance unit. The recipients to be transported by each such provider will be noted in the computer files of the agency. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

7. As a condition of participation for out of state

transport, providers of transportation to out of state medical services must be in compliance with all applicable federal interstate commerce laws regarding such transportation including but not limited to the \$1,000,000 insurance requirement. Proof of compliance with all interstate commerce laws must be submitted when enrollment in the Medicaid Program is sought or prior to providing any out of state Medicaid transportation.

8. A provider must agree to cover the entire parish or parishes for which he provides nonemergency medical transportation services.

C. Recipients' Responsibilities

1. Recipients shall participate in securing transportation at low cost and shall agree to use public transportation or solicit transportation from family members and friends as an alternative to more costly means of transport.

2. When the recipient alleges that public conveyance cannot be used due to medical reasons, then verification shall be provided by giving the agency a written statement from a doctor that includes the specific reason(s) that the use of public conveyance is contraindicated by the medical condition of the recipient. In no case can preference of the recipient be the sole determining factor in excluding use of public conveyance.

D. Nonemergency Medical Transportation Utilization Review

1. The Medicaid Program will employ four regional transportation utilization review groups, with representation from the medical community to review recipient requests for extension of trips. The review will include consideration of patterns of utilization considered above the norm for the recipient's peer group and the particular medical needs of the recipient. A series of recipient profiles showing utilization patterns will be brought before the committee for review and only in cases where the committee recommends to the bureau an extension beyond the 24 trip limit will recipient's number of trips above 24 be reimbursed. The Regional Committee shall utilize basic extension criteria to be developed by Medicaid management. Approval to transport will not be made until the regional committee has recommended approval of the extension. The Medicaid director or his designee has the right to make urgent approvals without going before the committee.

2. Programming will be refined to utilize the prior authorization file to assure reimbursement only for authorized trips assigned a valid authorization number.

3. Any recipient who knowingly abuses the transportation program will be locked-in to a medical provider and a transportation provider of the department's choice after review by the regional committee and based on their recommendation.

D. Procedural Requirements

1. Dispatch personnel will coordinate to the extent possible trips for family members so that all recipients in a family are transported as a unit at one time to the same or close proximity providers.

2. Providers must submit a signed affidavit with claims certifying that a true and correct bill is being submitted.

3. If the provider has declined to accept a trip on a particular day the dispatch personnel will not assign additional trips to that provider for that same day.

G. Suspensions and Terminations

Providers are subject to suspension from the Nonemergency Medical Transportation Program upon agency documentation of inappropriate billing practices.

Interested persons may submit written comments to the following address: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing has been scheduled for Tuesday, August 23, 1994 at 9:30 a.m. in the auditorium of the Department of Transportation and Development at 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

Rose V. Forrest
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonemergency Medical
Transportation Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost savings to the state associated with implementation of this proposed rule is \$12,078,640 for SFY 1995, 1996 and for SFY 1997.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated federal revenue decrease from this proposed rule is \$31,059,360 for SFY 1995, SFY 1996 and for SFY 1997.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The combined federal revenue decrease and state cost savings shown above represent reduced reimbursement to providers of nonemergency medical transportation services statewide.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The effect on competition and employment on a statewide basis cannot be accurately estimated.

Thomas D. Collins
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

Regulation 48—Health Insurance Standardized Claim Forms

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act and under the authority of R.S. 22:3 and R.S. 22:11, the commissioner of insurance hereby gives notice of his intent to adopt an amendment to Section 5.C. of Regulation 48. The regulation provides for the standardization of claims forms used for billing health care services.

**Proposed Amendment to Regulation 48
Standardized Claims Forms**

Section 1. - Section 4. ...

Section 5. Requirements for use of HCFA Form 1500

A. - B.2. ...

C. An issuer may not require a health care provider to use any other descriptor with a code or to furnish additional information with the initial submission of a HCFA Form 1500 except under the following circumstances:

1. - 3. ...

4. as otherwise required by federal regulation; or

5. as otherwise required by the Office of Workers' Compensation of the Louisiana Department of Labor.

D. ...

Section 6. - Section 8. ...

A public hearing on this proposed amendment to Regulation 48 will be held on August 19, 1994, in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, Louisiana at 10 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to George Renaudin, Executive Director, Louisiana Health Care Commission, Louisiana Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone number (504) 342-1255. Comments will be accepted through the close of business at 4:30 p.m. on August 19, 1994. The proposed amendment to Regulation 48 is scheduled to become effective October 20, 1994.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 48-Standardized Claim Form**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed amendment. The proposed amendment does not impose any new duties on the department.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
Adoption of this proposed amendment will not have any effect on revenue collections by the state or local governmental units. There are no fees, fines or other revenue-generating activities imposed.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
It is not anticipated that this proposed amendment will impose any additional costs on the health care insurers or the insureds.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
It is not anticipated that there will be any effect on either competition or employment resulting from the adoption of this proposed amendment.

Brenda St. Romain
Assistant Commissioner
Management and Finance

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Labor
Office of Workers' Compensation**

Hearing Rules (LAC 40:I.Chapter 21)

Under the authority of the Workers' Compensation Act, particularly R.S. 23:1021 et seq., and in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Labor, Office of Workers' Compensation hereby gives notice that rulemaking procedures have been initiated to amend the hearing officer's rules, LAC 40:I.Chapter 21.

The changes to these rules will facilitate the handling of disputed claims for Workers' Compensation Benefits by specifying methods for subpoenaing witnesses, clarifying the rules for submission of medical reports by independent medical examiners, providing a method for obtaining disability and medical information from the Social Security Administration, and providing a method for calculation and monitoring receipt of the Social Security Reverse Offset.

This proposed rule is to become effective on August 1, 1994 and may be viewed in its entirety in the Emergency Rule Section of this edition of the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 26, 1994, at 4:15

p.m., to Alvin J. Walsh, Director, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040 or 1001 North 23rd Street, Baton Rouge, LA 70802 or to FAX number (504) 342-5665.

Alvin J. Walsh
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hearing Rules**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be no implementation costs (savings) to state or local governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There is a potential increase in revenue collections of the Office of Workers' Compensation as a result of the \$500 fee to be paid by parties failing to appear at mediation. It is not possible to estimate the scope of these revenues at this time.
There will be a decrease in revenue due to a waiver of the \$30 filing fee. It is not possible to estimate the scope of these revenues at this time.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
These rules will facilitate the handling of disputed claims for Workers' Compensation Benefits by specifying methods for subpoenaing witnesses, clarifying the rules for submission of medical reports by Independent Medical Examiners, providing a method for obtaining disability and medical information from the Social Security Administration, and providing a method for calculation and monitoring receipt of the Social Security Reverse Offset. By expediting the handling of disputed claims, these rules will benefit employers, insurers and injured workers.
Employers and insurers can save attorney fees and end unjust claims more quickly. The injured worker will benefit by getting the benefits sooner. There will be a \$500 cost to the party failing to appear, and a \$30 filing fee saved by the filer if the dispute is settled at the first mediation.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
These rules are designed to facilitate handling of disputed claims for Workers' Compensation Benefits. The impact is not directly felt on employment or competition.

Alvin J. Walsh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Labor Office of Worker's Compensation

Medical Reimbursement Schedules (LAC 40:I.Chapters 25-53)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 23:1034.2 of Act 938 of the 1988 Regular Legislative Session and R.S. 23:1203, the Department of Labor, Office of Workers' Compensation, hereby gives notice of its intent to adopt and promulgate rules to update the medical reimbursement schedules:

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

The purpose of the Medical Reimbursement Schedules is to coordinate an efficient program to administer medical services to injured workers. The medical reimbursement schedules will include fee schedules for drugs, supplies, hospital care and services, medical and surgical treatment and any nonmedical treatment recognized by the laws of this state as legal and due under the Workers' Compensation Act and is applicable to any person or corporation who renders such care, services or treatment or provides such drugs or supplies to all employees covered by Chapter 10 of Title 23 of the Revised Statutes of 1950.

Additionally, Act 938 mandates the promulgation of a medical reimbursement fee schedule by the director of the Office of Workers' Compensation effective January 1, 1989.

The medical reimbursement schedules establish a basis for billing and payment of medical services provided to all injured employees.

This proposed rule text is being adopted as an emergency rule, effective August 1, 1994 for a period of 120 days or until the final rule is adopted, whichever occurs first.

A copy of medical reimbursement schedules shall be available for view at the Office of Workers' Compensation, 1001 North Twenty-Third Street, Baton Rouge, LA 70804 by contacting Judy Albarado at (504) 342-7559 and also at the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802.

Comments should be forwarded to Alvin Walsh, Director of Labor, Office of Workers' Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be received through the close of business on August 31, 1994.

Alvin J. Walsh
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Medical Reimbursement Schedules

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to the Office of Workers' Compensation to produce the medical reimbursement schedules will be \$38,157. The cost includes \$28,157 for the contract to Blue Cross - Blue Shield of Louisiana to prepare the schedules and \$10,000 for printing cost (500 copies at \$20 per copy).

State and local government units will pay less for medical services rendered its employees insofar as these updated reimbursement schedules will limit the amount of reimbursement allowed for medical treatment of injured workers. There is an estimated 15 percent - 20 percent reduction in total amount of medical payments paid in workers' compensation cases.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

A fee of \$20 will be charged to health care providers, insurance carriers or self-insured employers for each copy of the schedule. The amount of revenue that the Office of Workers' Compensation will collect is undeterminable since the number of health care providers, insurance carriers and/or self insured employers that will request a copy is unknown.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The medical reimbursement schedules with billing and maintenance instructions will provide updated guidelines and procedures for appropriate reimbursement amounts to the health care provider for a proposed or already performed service provided to a person receiving benefits legally due because of a job related injury or illness. The economic benefit will be a 15 percent to 20 percent reduction in overall medical payments for medical services provided as a result of an on the job injury or illness.

Employers through their insurance carriers will continue to realize a considerable reduction in medical payments for the medical services provided as a result of an on the job injury or illnesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment. The medical reimbursement schedules are designed to provide maximum allowable reimbursement to health care providers for services rendered to injured employees. The impact is not directly felt on employment or competition.

Alvin J. Walsh
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Crude Oil Depth (LAC 43:XIX.3701-3709)
Statewide Order 151-A-2

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby amends Statewide Order 151-A-2.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations

Subpart 16. Statewide Order No. 151-A-2

Chapter 37. Statewide Crude Oil Depth Bracket Allowable Schedule

§3701. Scope

Order establishing a Statewide Crude Oil Depth Bracket Allowable Schedule for Oil Wells in addition to providing additional allowable incentive to horizontal oil wells.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§3703. Definitions

Unless the context otherwise requires, the words defined in this Section shall have the following meanings when found in this order:

Horizontal Oil Well—a well with the wellbore drilled laterally at an angle of at least 80 degrees to the vertical and with a horizontal displacement of at least 50 feet in the pool in which the well is completed for production, measured from the initial point of penetration into such pool.

Maximum Efficient Rate (MER)—the maximum sustainable daily oil withdrawal rate from a reservoir which will permit economic development and depletion without causing waste.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§3705. Allowable Schedule for Oil Wells Other than Horizontal Wells

A. The Statewide Crude Oil Depth Bracket Allowable Schedule for oil wells other than horizontal wells is listed below:

MEASURED DEPTHS	STATEWIDE ALLOWABLE (BPD)
0 - 2000	200
2 - 3000	300
3 - 4000	400
4 - 5000	500
5 - 6000	600
6 - 7000	700
7 - 8000	800
8 - 9000	900
9 - 10000	1000
10 - 11000	1100
11 - 12000	1200
12 - 13000	1300
13 - 14000	1400
14 - 15000	1500
15 - 16000	1600
16 - 17000	1700
17 - 18000	1800
18 - 19000	1900
19 - 20000	2000
20 - 21000	2100
21 - 22000	2200
etc.	etc.

B. The measured depth of the deepest perforation in the pool shall be used in determining the applicable depth bracket allowable for all wells in the pool.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§3707. Horizontal Oil Well Allowables

A. Subject to §3707.B and C, the allowable for each horizontal oil well shall be its Maximum Efficient Rate.

B. Allowables assigned to units in competitive reservoirs shall be subject to adjustment if needed to prevent adverse

drainage or to protect correlative rights after public hearing based on 10 days legal notice.

C. A unit in a competitive reservoir containing multiple unit wells, at least one of which is a horizontal well, shall be assigned an allowable equal to the greater of the maximum efficient rate for the horizontal well or the applicable depth bracket.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§3709. Effective Date

This order supersedes Statewide Order No. 151-A-1 and shall be effective upon publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with Act 157.

HISTORICAL NOTE: Adopted by the Department of Conservation, September 24, 1948, amended June 4, 1950, January 1, 1951, February 1, 1951, January 31, 1952, January 31, 1952, May 19, 1952, July 1, 1957, July 1, 1959, January 1, 1960, January 1, 1961, July 18, 1961, October 1, 1962, March 1, 1967, January 1, 1967, November 1, 1967, January 1, 1978; amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

In accordance with the provisions of R.S. 49:951 et seq. and R.S. 30:4, commissioner of conservation will conduct a public hearing at 9 a.m., Thursday, August 25, 1994, in the Conservation Auditorium, located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953.

Written comments will be accepted until 4:30 p.m., Tuesday September 6, 1994 and should be directed to H. W. Thompson, Commissioner, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

H. W. Thompson
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Statewide Order 151-A-2

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs/savings to state or local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There could be a positive effect on revenue collections of state or local governmental units. Allowable incentive provided by the proposed rule could result in additional drilling/production resulting in increased severance taxes, etc. However, actual increase is undeterminable.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs to directly affected persons or nongovernmental groups. Allowable incentive provided by the proposed rule could result in additional drilling/production resulting additional drilling/production resulting in increased economic benefit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

H. W. Thompson
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources Office of Conservation

Multiple Completions (LAC 43:XIX.1101-1105) Statewide Order 29-B-a

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Natural Resources, Office of Conservation hereby proposes to amend Statewide Order No. 29-B-a.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation: General Operations Subpart 4. Statewide Order No. 29-B-a Chapter 11. Required Use of Storm Chokes

§1101. Scope

Order establishing rules and regulations concerning the required use of storm chokes to prevent blowouts or uncontrolled flow in the case of damage to surface equipment.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by the Department of Natural Resources, Office of Conservation, LR 20:

§1103. Applicability

A. All flowing wells with a surface pressure in excess of 100 pounds, falling within the following categories, shall be equipped with storm chokes:

1. any locations inaccessible during periods of storm and for flood, including spillways;
2. located in bodies of water being actively navigated;
3. located in wildlife refuges and/or game preserves;
4. located within 660 feet of railroads, ship channels, and other actively navigated bodies of water;
5. located within 660 feet of state and federal highways in Southeast Louisiana, in that area East of a North-South line drawn through New Iberia and South of an East-West line through Opelousas;
6. located within 660 feet of state and federal highways in Northeast Louisiana, in that area bounded on the West by the Ouachita River, on the North by the Arkansas-Louisiana

line, on the East by the Mississippi River, and on the South by the Black and Red Rivers;

7. located within 660 feet of the following highways:

a. U.S. Highway 71 between Alexandria and Krotz Springs;

b. U.S. Highway 190 between Opelousas and Krotz Springs;

c. U.S. Highway 90 between Lake Charles and the Sabine River;

8. located within the corporate limits of any city, town, village, or other municipality.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 15, 1946, amended March 1, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:

§1105. Waivers

A. Onshore Wells

1. Where the use of storm chokes would unduly interfere with normal operation of a well, the commissioner of conservation may, upon submission of pertinent data, in writing, waive the requirements of this order.

B. Offshore Wells

1. The district manager, upon submission of pertinent data, in writing explaining the efforts made to overcome the particular difficulties encountered, may waive the use of a subsurface safety valve under the following circumstances, and may, in his discretion, require in lieu thereof a surface safety valve:

a. where sand is produced to such an extent or in such a manner as to tend to plug the tubing or make inoperative the subsurface safety valve;

b. when the flowing pressure of the well is in excess of 100 psi but is inadequate to activate the subsurface safety valve;

c. where flow rate fluctuations or water production difficulties are so severe that the subsurface safety valve would prevent the well from producing at its allowable rate;

d. where mechanical well conditions do not permit the installation of a subsurface safety valve;

e. in such other cases as the district manager may deem necessary to grant an exception.

2. Under the following circumstances no formal approval is necessary. However, each company will maintain records indicating the date a subsurface safety valve is removed, the reason for its removal, and the date it is reinstalled:

a. when the flowing pressure of the well is 100 psi or less;

b. when it is necessary to perform routine maintenance and service work; to clean up completions and recompletions in wells where a subsurface safety valve would otherwise be in service.

AUTHORITY NOTE: Promulgated in accordance with Act 157 of the Legislature of 1940.

HISTORICAL NOTE: Adopted by the Department of Conservation, March 1, 1961, amended March 15, 1961, amended and promulgated by Department of Natural Resources, Office of Conservation, LR 20:

In accordance with the provisions of R.S. 49:951 et seq. and

R.S. 30:4, the commissioner of conservation will conduct a public hearing at 9 a.m., Thursday, August 25, 1994, in the Conservation Auditorium, located on the first floor of the State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

All interested parties will be afforded the opportunity to submit data, views, or arguments, orally or in writing at said public hearing in accordance with R.S. 49:953.

Written comments will be accepted until 4:30 p.m., Tuesday September 6, 1994, and should be directed to H.W. Thompson, Commissioner, Office of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

H. W. Thompson
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Statewide Order 29-B-a

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no implementation costs/savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

H. W. Thompson
Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Public Safety and Corrections Office of State Police Riverboat Gaming Commission

Electronic Video Bingo (LAC 42:I.Chapters 17, 19)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 36:408, R.S. 40:1485.4, and R.S. 49:950 et seq., gives notice that rulemaking procedures have been instituted to amend LAC 42:I.1703, 1707, 1721, 1725, 1732, 1733, 1742, 1744, 1745, 1755, 1757, 1761, 1901, 1903, 1905, 1911, 1913, 1923, 1925, 1931, 1933, 1943, 1949, 1955, 2201 and 2213 to increase regulatory authority over selected areas and increase electronic video bingo activity.

Copies of the full text of this proposed rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA. Telephone (504) 342-5015. Please refer to Log 9407#065 when inquiring about this rule. Copies may also be obtained from the Office of State Police, Charitable Gaming Division at the address listed below.

Interested persons may submit written comments on the proposed rule changes to: Lieutenant Joseph T. Booth, Director, Division of Charitable Gaming Control (52), Office of State Police, Louisiana Department of Public Safety and Corrections, Box 66614, Baton Rouge, LA 70896. Telephone: (504) 925-1835.

Paul W. Fontenot
Superintendent

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Electronic Video Bingo**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The total cost incurred by the state for implementation of the proposed rule is \$2,439.36. It will have no impact on local governmental units.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The proposed rule will increase the state's revenues by a total of \$60,000.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)**
There will be an estimated minimum one-time cost of \$752.95 to noncommercial lessors, an estimated minimum one-time cost of \$1,102.95 to commercial lessors, and an estimated cost to electronic video bingo distributors or hall owners to pay a representative an average of \$374 per week for each location where the distributor has machines.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
There should not be an increased amount of competition between the licensees themselves. The proposed action will result in increased employment of electronic video bingo representatives at bingo halls.

Paul W. Fontenot
Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Revenue and Taxation
Severance Tax Division**

Severance Tax (LAC 61:I.2903.A.8)

Under the authority of R.S. 47:633 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue and Taxation, Severance Tax Division, proposes to amend LAC 61:I.2903.A.8 pertaining to the taxable value of oil and/or condensate.

Severance tax is collected on oil and/or condensate based on a percentage of its value at the time and place of severance. R.S. 47:633(7) states that "Such value shall be the higher of (1) the gross receipts received from the first purchaser, less charges for trucking, barging and pipeline fees, or (2) the posted field price." This amendment clarifies the definition of value, gross receipts, and posted field price; and defines what constitutes an arm's length transaction.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered
by the Secretary of Revenue and Taxation**

**Chapter 29. Natural Resources: Severance Tax
§2903. Severance Taxes on Oil: Distillate, Condensate or
Similar Natural Resources; Natural Gasoline or
Casinghead Gasoline; Liquefied Petroleum Gases
and Other Natural Gas Liquids; and Gas**

A. Definitions

* * *

8. *Value*—with respect to oil and/or condensate, the value shall be the higher of (1) the gross receipts received from the first purchaser by the producer or (2) the posted field price.

a. *Gross Receipts*—the total amount of payment (i) received from the first purchaser, in an arm's length transaction, or (ii) received from the first purchaser or transferred from the first purchaser by recognized accounting methodology, in a non-arm's length transaction. Gross receipts shall include bonus or premium payments when made by the purchaser to the owner, all advanced payments, and any other thing of value such as exchanges, barter, or reimbursement of costs. Advanced payments are not taxable until the oil and/or condensate for which such payments are made are actually severed and delivered to the purchaser.

b. *Posted Field Price*—a statement of crude oil prices circulated among buyers and sellers of crude petroleum and is generally known by buyers and sellers within the field as being the posted price. The posted field price is the actual price of crude petroleum advertised for a field. The area price is a statement of crude oil prices circulated among buyers and sellers of crude petroleum listing prices for different areas of the state, usually listed as north Louisiana and south Louisiana, and generally known among buyers and sellers within the area as the posted price. This area price is the beginning price for crude petroleum of an area before adjustments for kind and quality (including but not limited to

gravity adjustments) of the crude petroleum. When no actual posted field price is advertised or issued by a purchaser, the area price less adjustments for kind or quality (including but not limited to gravity adjustments) becomes the posted field price.

c. *Arm's Length Transaction*—a contract or agreement that has been arrived at in the open market place between independent and nonaffiliated parties with opposing economic interests.

d. *Non-arm's Length Transaction*—a contract or agreement between subsidiaries and/or related parties and/or affiliates.

e. *Value in Arm's Length Transaction*—in an arm's length transaction the value shall be the gross receipts of all things of value received directly or indirectly by the producer.

f. *Value in Non-arm's Length Transaction*—in a non-arm's length transaction, the value shall be derived by taking the following into consideration:

i. the gross receipts of all things of value received directly or indirectly by the producer.

ii. if the producer or a subsidiary, related party, or an affiliate of the producer, is the purchaser, look to the gross proceeds from contemporaneous arm's length transactions by such purchaser for the purchase of significant quantities of like quality oil or condensate in the same field, or if necessary, the same area.

iii. the prices paid by independent and nonaffiliated parties for significant quantities of like quality oil or condensate produced in the same field or, if necessary, the same area.

iv. other relevant information, including information submitted by the producer concerning the unique circumstances of producer's operations, product or market.

g. The secretary, in the absence of supporting documentation or arm's length transaction, may adjust a producer's reported value to conform with the above mentioned standards.

h. *Transportation Costs*—there shall be deducted from the value determined under the foregoing provisions the charges for trucking, barging, and pipeline fees actually charged the producer. In the event the producer transports the oil and/or condensate by his own facilities, \$.25 per barrel shall be deemed to be a reasonable charge for transportation and may be deducted from the value computed under the foregoing provisions. The producer can deduct either the \$.25 per barrel or actual transportation charges billed by third parties but not both. Should it become apparent the \$.25 per barrel charge is inequitable or unreasonable, the secretary may prospectively redetermine the transportation charge to be allowed when the producer transports the oil/or condensate in his own facilities.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:633.

HISTORICAL NOTE: Adopted by the Department of Revenue and Taxation, Severance Tax Division, August 1974, amended LR 3:499 (December 1977), LR 20:

All interested persons may submit data, views, or arguments, in writing to Carl Reilly, Assistant Director, Severance Tax Division, Department of Revenue and

Taxation, Box 201, Baton Rouge, LA 70821. All comments must be submitted by 4:30 p.m. Monday, August 29, 1994.

A public hearing will be held on Tuesday, August 30, 1994, at 1:30 p.m. in the Department of Revenue and Taxation Secretary's Conference Room, 330 North Ardenwood Drive, Baton Rouge, LA.

Carl Reilly
Assistant Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Severance Tax (LAC 61:2903.A.8)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs for printing new tax returns and computer programming changes are estimated to be less than \$10,000.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no effect on state revenue collections. These are technical changes to the current regulations, that have been in place since 1974. The regulatory language is to define taxable value of the oil and/or condensate when using area prices, arm's length transactions, and non-arms length transactions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no additional costs to the producers and/or purchasers of the oil and/or condensate.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is expected that there will be no effects on competition and employment.

Ralph Slaughter
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

JOBS Program Components (LAC 67:III.2916)

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 5, Job Opportunities and Basic Skills Training Program.

Under the authority of 45 CFR 250.33 (a) which allows a state to design and provide a work program for unemployed parents, the JOBS Program proposes to expand the availability of work activities to include a specific component for Aid to Families with Dependent Children-Unemployed Parents (AFDC-UP) participants.

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and Basic Skills Training
Program

Chapter 29. Organization
Subchapter C. Activities and Services
§2916. Program Components

Program components are the employment-related activities that may be provided to a participant.

* * *

8. Independence through Work. This is unsalaried job experience and training at clearly defined, well-supervised worksites, excluding private homes and worksites that do not lead to gainful employment. This program is limited to AFDC-Unemployed Parents and the minimum scheduled participation must be 20 hours per week.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq. and 45 CFR 250.63, 250.33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 17:1227 (December 1991), LR 19:504 (April 1993), LR 20:

Interested persons may submit written comments by August 19, 1994 to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on August 25, 1994 in the Second Floor Auditorium, 755 Third Street, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Gloria Bryant-Banks
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: JOBS Program Components (LAC 67:III.2916)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs associated with this rule other than the state cost of approximately \$250 for publishing and printing the material necessary to effect the rule. An additional component is created as another employment-related activity; however, it is restricted to eligible AFDC-Unemployed Parent participants only. The JOBS Program will require no increased funding to effect this change. There is no savings to the state or any local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on revenue collections for either.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rule produces no cost nor any anticipated economic benefit to any persons or nongovernmental groups, although the goal of the rule is long-range economic benefit for the participant through employment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated impact on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Social Services
Office of the Secretary

Class "A" Minimum Standards—Sick Child
Day Care Centers (LAC 48:I.Chapter 53)

In accordance with the provision of R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services, Office of the Secretary, Bureau of Licensing, under the authority vested in R.S. 46:1401-1424 plans to adopt the following licensing standards for day care centers that care for sick children.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 53. Day Care Centers

§5401. Definitions

Child Day Care Center—any place or facility operated by any institution, society, corporation, person or persons, or any other group for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18 years not related to the care giver and unaccompanied by parent or guardian, on a regular basis for at least 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay, shall be known as a full-time day care center.

Sick Child—any child who is prohibited from usual participation in a day care center (as defined above) due to discomfort, injury or other symptoms of illness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

§5403. Standards

A. The Louisiana Administrative Code, Title 48, Chapter 53, §5001 et seq., which pertain to Class "A" day care licensing regulations, apply to the sick child day care centers as well.

B. In addition to §5309 regarding application for licensure, any existing facility approved as a day care center that wishes to utilize the facility for sick child care, must submit another

application and fee for licensure as a sick day care center. Facilities and/or rooms designated for use by and for sick children shall not be used by children or staff from any other day care component. Children and staff who begin their day in a sick child care center shall remain throughout the day and shall not be permitted to return to any other part of the child care center or transfer to any other child care center.

C. Facilities receiving approval as a sick child care center that are also approved as a day care center will be issued one license designating licensure for both components. The licensee shall ensure that the day care center for sick children is maintained physically separate and apart from the other day care center components. A center licensed for both day care and sick day care must be relicensed for each component. A center licensed for both day care and sick day care may have a license revoked for either or both of the above components according to §5309.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR §5405. **Personnel**

A. All personnel shall have verification of current immunizations. (See Appendix A for recommended immunization as dictated by the Office of Public Health.)

B. All personnel shall have verification of an annual TB test with negative result.

C. In addition to §5309.G, there shall be a currently licensed nurse practitioner or registered nurse on the premises of the sick day care center at all times. The registered nurse must have documented experience in pediatrics or child care experience and be knowledgeable in communicable diseases and child care licensing requirements.

D. Sick day care providers shall utilize the services of a physician consultant as verified by written contract or agreement.

1. The consultant shall be used to assist the nurse in the development and annual review of written policies and procedures for the following:

- a. admission, including inclusion/exclusion criteria;
- b. health evaluation procedures on intake including physical assessment of the child and other criteria used to determine the appropriateness of a child's attendance;
- c. plans for health care and managing children with communicable disease;
- d. plans for disease surveillance and problems which arise in the care of children;
- e. plans for staff training and communication with parents and health care providers;
- f. employee health and immunization requirements.

2. The physician consultant shall provide on-going consultation to the program in its overall operation and the management of illness for individual children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

§5407. Training

A. In addition to §5311 regarding staff training and development, all facilities licensed as a sick child care center

shall conduct and document 20 hours of orientation training by the registered nurse for each staff member upon employment or within 30 days of employment to include training in each of the following subjects:

1. first aid and CPR;
2. general infection control procedures; including:
 - a. handwashing;
 - b. handling contaminated items;
 - c. use of disinfectants;
 - d. universal precautions;
3. care of children with common childhood illnesses including:
 - a. disease transmission;
 - b. recognition and documentation of illness signs and symptoms;
 - c. health department notification of reportable diseases;
 - d. administration of medications;
 - e. temperature taking;
 - f. nutrition of sick children;
 - g. communication with parents of sick children;
 - h. knowledge of immunization requirements;
 - i. when and how to call for medical assistance;
4. child development activities for children who are sick.

B. An employee who transfers from one facility to another within one year can transfer documented orientation training to the new facility.

C. Annually, each director and staff member of a sick child care facility shall have at least three contact hours of continuing education related to the care of sick children and the prevention and control of communicable disease. This should be some formal type of training and can represent three hours of the 12 hours already required in Chapter 53, §5311.

D. In addition, four hours of annual training in general aspects of infection control in child care are to be conducted by the nurse practitioner or registered nurse. Documentation shall consist of the minutes of the training/staff meetings or statement signed by both the employee/provider (director, nurse practitioner, etc.) attesting to having received the training. This documentation shall be filed in the employee's personnel record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

§5409. Staffing

A. §5313 regarding staff/child ratio and Section 5317 regarding group size will not apply to sick child care centers. Facilities approved as a sick child care center shall maintain a staff/child ratio no less than the following:

Child's Age	Staff/Child Ratio	Maximum Group Size* Per Room
0-12 month(s)	1:3	3
13-24 months	1:3	6
25-59 months	1:5	10
5-7 years	1:8	8
8-12 years	1:10	10

*NOTE: These numbers may vary according to the specific disease or illness. Final approval will be required by the health department or physician consultant.

B. The number of qualified medical personnel (Licensed Practical Nurse or Registered Nurse) required depends on the severity of illness/level of professional care required.

1. Level 1—Nonacute (mildly sick, recuperating from ear infections, chickenpox, influenza, etc.) one medical personnel per 20 - 25 children.

2. Level 2—Acute (recent surgery requiring skilled nursing care, use of apnea blanket, etc.) one medical personnel per 10 children.

C. When there are mixed age groups, excluding children under one, the staff/child ratio shall be consistent with the age of the youngest child. Children under the age of one shall not be placed in a room with older children.

D. A caregiver assigned to a specific group of sick children shall remain with those same children throughout the caregiver's workday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR §5411. Plant Equipment

A.1. In addition to §5319.A.1 regarding indoor space, a center providing day care for sick children as a component of a licensed center for well children shall use rooms/areas and facilities which are physically separated by floor to ceiling walls from other components of the center. The center shall ensure that all entrances/exits, fixtures, furniture, equipment and supplies designated for use in the care of sick children and for use by the children shall not be shared with or used by any other component of the center.

2. A single kitchen may be shared by the facilities for sick and well children if the kitchen is staffed by a cook who has no other child care responsibilities.

B. Children with respiratory illnesses, gastrointestinal illnesses and noninfectious illnesses shall be cared for in a separate room from each other to reduce the likelihood of disease transmission between disease cohorts of children by limiting child-to-child interaction, separating staff responsibilities by disease cohort, and limiting the commingling of supplies, toys and equipment.

C. Children with chickenpox and measles shall not be admitted for care in a sick child care center unless the care shall take place in a separate room, which is externally ventilated outside of the facility (preferably a positive airflow system) with floor to ceiling walls. There must also be a separate exterior entrance for these children to enter the sick day care center.

D. §5319.A.2.a should be omitted and the following inserted: A program for sick day care children shall not be required to have 75 square feet of outdoor space for each child. The program should instead develop a written plan to ensure some opportunities for safe outdoor activities in accordance with §5323.C.2.

E. In addition to §5319.B.1 regarding available working telephone, the capability of having a three-way conversation on the telephone is required. This regulation allows for the timely and accurate communication between the parent, the

child's pediatrician or the physician consultant, and the registered nurse from the sick child care center. Communication with parents and children's physicians should be handled by the registered nurse, licensed practical nurse or management staff only.

F. In addition to §5319.B regarding furnishings and equipment, a toilet and handwashing sink shall be present in each child care room. All rooms used for diapered children must have a diaper changing area placed adjacent to the handwashing sink.

G. §5319.B.6 regarding individual and appropriate sleeping arrangements is amended to omit any reference to use of mats.

H. §5319.B.8 regarding spacing is amended to require 3 feet of space between cribs or cots when in use.

I. All children in attendance are to be under direct visual observation by program staff at all times.

J. Children shall have access at all times to rest/nap areas without distraction or disturbance from other activities whenever the child desires.

K. In addition to §5319.C regarding sanitary requirements, the following shall be included:

1. spills of body fluids (urine, feces, blood or wound drainage) shall be cleaned up immediately as follows:

a. in general, routine housekeeping procedures using a freshly prepared solution (every 24 hours) of commercially available cleaner (detergents, disinfectant-detergents, or chemical germicides) compatible with most surfaces are satisfactory for cleaning spills of vomitus, urine and feces;

b. for spills of blood or blood-containing body fluids and wound drainage, a freshly prepared solution (every 24 hours) of household bleach (1/4 cup diluted in one gallon of water) shall be used to disinfect the area of the spill. Disposable gloves shall be used in these situations;

c. persons involved in cleaning contaminated surfaces shall avoid exposure of open skin lesions or mucous membranes to blood or blood-containing body fluids and wound or tissue drainage by using gloves to protect hands when cleaning contaminated surfaces;

d. hands are to be washed after activities a, b or c;

2. toys which are placed in children's mouths shall be cleaned with water and detergent, disinfected and rinsed before handling by another child. Nonwashable toys shall not be provided by the center. IF such toys are brought from home they must be limited to personal use articles that are NOT shared between children;

3. single-use, disposable cups shall be provided for all children. Disposable plates and eating utensils shall be used unless there is a mechanical dishwasher meeting local sanitation standards.

L. In addition to §5319.E.5 regarding safety requirements, the sick child care center shall have several different sizes of oral airways on hand in case of emergencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR §5413. Admission Policies and Procedures

A. In addition to §5321 regarding admission of children to the day care center, the sick child care facility shall develop

a written procedure prior to initiating services, to obtain necessary medical information to meet health standards, (e.g., immunizations, inclusion/exclusion) and to implement the program. This includes the background diagnostic information, health and social history. Information shall be sought on all therapies and treatments being provided to the child along with the expected length and frequency of expected services. The sick child care program shall include a procedure for conducting physical assessments on all children entering the facility. The program shall also institute a policy on the management of children with communicable diseases. These policies must be in compliance with all sick day care center regulations.

B. Specific disease surveillance policies shall be employed to prevent and control communicable diseases in the sick child care center. Each sick child care center shall have a written policy for reporting certain communicable disease cases to the Office of Public Health and notifying the parents.

C. The facility's program shall obtain and keep records of the child's immunization and health history, treatments, prescribed medications and any special procedures that the child may require.

D. The facility's program shall also describe feeding, toileting, active and quiet activities, and special interventions for children with special needs and shall be made available to parents and licensing staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR §5415. **Physical Assessment**

A. Prior to admission to a sick day care center, the registered nurse shall review the child's condition and medical history with the parent to determine if the child is eligible for sick care, the placement of the child and his/her care plan. This should preferably be done by phone to minimize exposure to other children and to eliminate the need for a visit to the facility if ineligible.

B. If it is determined that the child may be eligible for sick child care, a physical assessment shall be performed by a registered nurse or physician. Physical assessments shall document the following:

1. if child can be admitted to the sick day care center;
2. if child should be referred to a physician;
3. if child has signs of a contagious illness or a more serious illness that is not immediately apparent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR §5417. **Care of Children**

A. In addition to §5309.G.3.b.ii, no staff member with infectious skin lesions which cannot be covered shall be responsible for food handling.

B. Each meal and/or snack shall be prepared in accordance with the requirements of the physician and the subsequent care plan. Parents are allowed to provide food if this practice is within the facility's approved policies and procedures.

C. §5323.B.1 is amended as follows: The administration of prescription medicines at the sick child day care center shall

be limited to those prescribed by a licensed physician for the individual child in the original container labeled by a pharmacist. Over the counter drugs may be administered with written permission of the parent or guardian in conformity with the policies and procedures established by the physician consultant or the child's physician. All medication (prescription or over the counter) shall be in the original container.

D. §5323.B.5 is amended for sick child care to read as follows: The sick child care facility shall not accept or retain any child for care who displays any of the following signs, symptoms or illnesses:

1. labored breathing;
2. undiagnosed rash;
3. fever of 101° F or greater by rectal standards in any child under three months of age;
4. fever of 101° F or greater by rectal standards in any child under one year of age not seen by a physician;
5. persistent vomiting and/or severe diarrhea;
6. signs of dehydration;
7. untreated lice, scabies, pinworm, ringworms;
8. severe lethargy (drowsiness);
9. symptoms of pertussis such as: whooping cough, spasmodic cough with vomiting or persistent cough with profuse nasopharyngeal secretions not diagnosed by a physician;
10. sore throat accompanied by fever (above 100° F oral not seen by a physician);
11. undiagnosed stomatitis;
12. fever (100° F oral or 101° F rectal) associated with any one or more of the above symptoms;
13. contagious stage of measles, chicken pox, or mumps unless sick child care facility is expressly set up to handle these children according to §5319.A. The child with one of these diseases must be able to enter the facility by a separate entrance/exit from the rest of the children;
14. any other conditions that the nurse practitioner or physician consultant determines should be excluded.

NOTE: Children with such conditions as specified in §5323.B.5 above may be accepted for sick child care when the evaluation and health assessment conducted by the nurse practitioner or physician consultant results in the determination that the child is not seriously sick.

E. Children needing post-operative convalescent care and children with short-term disabilities such as tracheostomy tubes, colostomy, gastronomy tubes or apnea monitors or children with long-term disabilities who exhibit illnesses/symptoms for which they are excluded from a day care program for well children may be admitted to a sick day care center if the program can ensure all of the following:

1. The center has on staff a registered nurse with documented competence to handle a specific disability.
2. The center has appropriate equipment and staff with documented competence and/or experience in operating the equipment.
3. The center has, prior to admission, written permission from the child's physician with specification of any skilled nursing treatment to be provided to the child.

F. The sick child care center shall be equipped to isolate

and care for any sick child who is suspected of having a communicable disease.

1. The isolation area shall be located to afford easy observation, access and continuous supervision. The child shall be under constant visual observation by staff.

2. The isolation area shall not be in the kitchen, food preparation or general use toilet area.

3. In centers that have both a day care and a sick day care component, the isolation area shall be separate from the isolation areas of all other day care center components.

G. A sick child shall be temporarily isolated if either one of the following occurs:

1. The center determines that the condition of the child becomes worse warranting notification of the parent.

2. The child is determined to have any one or combination of symptoms or conditions as specified in §5323.B.5.

H. §5323.B.6 is amended for sick child care to read as follows: The parent or legal guardian shall be notified immediately of any significant change in a child's behavior or signs of illness. This information and the subsequent notification of parent by phone shall be recorded in writing and filed in the child's record.

I. §5323.C regarding daily program should be deleted. The following should be inserted.

1. A care plan shall be developed and updated daily for each child in order to establish guidelines for care, to assure that each child is treated as an individual and to assure continuity of care. The care plan shall be completed with the assistance of the child's parent and shall be verified by the parent's signature and date on the plan. The plan of care should consider:

- a. the age and stage of development of the child;
- b. symptoms or illness displayed;
- c. parent's and/or physician's instructions;
- d. observations;
- e. objectives for the child;
- f. activity level.

2. A variety of planned daily activities shall be designed to meet the needs of the sick children including:

a. quiet and active indoor and outdoor activities according to the developmental level, ability and physical condition of each child;

b. individual activities which will not promote interaction for use by children who are in the contagious stages of their disease and by children who are not physically well enough to participate in group activities;

c. toys and equipment which are disposable or able to be sanitized.

3. The day care center for sick children shall maintain a chart for each child. The chart should contain such information as the child's care plan, physical assessment, medical history, admission sheet, medication permit and daily health record. The daily health record shall document the child's condition throughout the day and shall include, but not be limited to:

a. activities—such as the child's state of alertness, behavior, complaints, frequency and length of sleep, rest and play;

b. vital signs—temperature, pulse, respiratory rate;

c. intake—amount of food and liquid consumed;

d. output—number of bowel movements (consistency, color, etc.), number of times vomited (describe), number of wet diapers or trips to the bathroom, etc.;

e. any medications given—administration, dosage and times of.

J. A duplicate copy of the daily health record shall be provided to the parent upon the child's discharge from the sick day care center each day.

K. A sick child care center shall not provide transportation of children except to a medical facility in cases of medical emergency. Any exceptions to this regulation shall require prior approval by the Department of Social Services and must include added provisions as deemed necessary by the department and approved by the physician consultant. The parent or legal guardian must come to the center to release the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR §5419. Infectious/Medical Waste Disposal

A. Clothing soiled with stool shall not be washed at the center. Soiled clothes shall be put in sealed plastic bags to be picked up by the child's parent or guardian at the end of the day. Only disposable diapers shall be used unless there is a medical contraindication such as allergies.

B. There are sufficient quantities of facial tissues, paper towels and supplies for handwashing, diapering and cleaning so that they are ALWAYS AVAILABLE when needed. There are extra linen and mattress covers on hand in case of accidents.

C. Potentially infectious waste materials (kleenex, diapers, bandages and wound dressings, items soiled with blood, etc.) shall be discarded into sealed plastic bags which can be kept out of the reach of children. Needles, syringes or other "sharps" shall be discarded in break resistant, rigid, puncture resistant containers, the openings of which must be tightly closed prior to storage or transport. The openings shall be small enough to prevent an injury resulting from a child sticking his hand into the container. The day care center (known as a small generator of infectious/medical waste) must then transport this container when full to a larger generator (hospital or free-standing clinic) or contract with a licensed hauler.

NOTE: The day care center may wish to develop an agreement to transport their "sharps" container to the physician consultant's office for further disposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR

Interested persons may submit written comments on this proposed rule to Steve Phillips, Office of the Secretary, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the following public hearings.

August 24, 1994
10 a.m.

August 25, 1994
10 a.m.

August 26, 1994
1 p.m.

State Office Building
1525 Fairfield Avenue
Ninth Floor Conference Room
Shreveport, LA

Bureau of Licensing
2751 Wooddale Boulevard
Suite 330
Baton Rouge, LA

State Office Building
325 Loyola Avenue
Room 511
New Orleans, LA

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Sick Child Day Care Centers**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated cost to the state associated with the implementation of this proposed rule is \$500 for administrative expenses for SFY 1995 but there are no estimated costs for SFY 1996 or SFY 1997.
From all indicators, there will be no more than two facilities for sick child day care opened in SFY 1995. It is estimated that by the end of SFY 1997, there will be no more than five facilities. The \$500 administrative expenses for the three year period. There will be no need for additional staff due to the limited number of sick child day care centers.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections on state and local governmental units.
Facilities that are currently licensed, that may convert a portion of their center to sick care, will have a reduction in their license fee for "well" children and then pay for the "sick" child care which will result in no overall increase as license fees are based on capacity. It is not anticipated that any facility will be opened to care for only sick children.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs or economic benefits to affected persons or nongovernmental groups.
Any costs related to additional regulations will be offset by increased funding for the added care. It is expected that the increased funding will come from employers as a means for them to keep an employee on the job, therefore saving the employer money. And, therefore, no real cost increase to parents.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect on competition and employment.

Robert M. Casse, Jr.
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

Net Ban During Lake Drawdown (LAC 76:VII.175)

The Wildlife and Fisheries Commission hereby advertises its intent to establish a rule prohibiting netting in lakes during water drawdown periods.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 1. Freshwater Sports and Commercial Fishing
§175. Net Ban During Lake Drawdown**

All freshwater impoundments shall be closed to use of commercial fish netting during water drawdown periods, unless otherwise specified by the department based upon biological and technical data; the closure to begin on the date the drawdown control structure is opened and continued until the lake returns to full pool following closure of the structure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22(B).

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 20:

Interested persons may submit written comments on the proposed rule to Bennie J. Fontenot, Jr, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000 no later than 4:30 p.m., Thursday, September 1, 1994.

John F. "Jeff" Schneider
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Net Ban During Lake Drawdown**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out by existing enforcement personnel through routine patrol activities.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be a temporary reduction in revenues derived from fish netting activities during the drawdown period. This temporary reduction should be more than offset by better fisheries opportunities through enhanced fish populations and better access as a result of the drawdown.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Effects upon competition and employment will be short term and minimal during the relatively brief closure. Long term

effects upon competition and employment will be positive as a result of enhanced fish populations.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

ADMINISTRATIVE CODE UPDATE

CUMULATIVE ADMINISTRATIVE CODE UPDATE January, 1994 through June, 1994

LAC Title	Part. Section	Effect	Location LR 20 Month Page
1	I.501	Amended	Jun 657
4	V.1525-1565	Repealed	May 512
	V. Chapter 41	Repromulgated	Apr 374
	VII.125	Amended	Jan 29
	VII.905,911	Amended	Jan 48
	VII.915	Adopted	Mar 294
	VII.1239	Amended	May 543
	VII.1243	Repromulgated	Jan 48
7	XIII. Chapter 87	Amended	Jun 642
	XXI. Chapter 117	Amended	Apr 405
	XXIII. Chapter 131	Amended	Jun 641
	XXV. Chapter 141	Amended	Jun 644
	XXVII.14727	Repromulgated	Feb 154
	XXIX. Chapter 151	Amended	Jun 639
	XXIX.15111	Amended	Feb 153
	XXXI. Chapter 161	Amended	Apr 398
	XXXV.17502	Repromulgated	Jan 28
	XXXIX.20101	Amended	Apr 408
	XLIII. Chapter 311	Adopted	Apr 393
10	XV.301—321	Amended	Feb 154
	XV.303	Repromulgated	Mar 280
	XV. Chapter 9	Adopted	Apr 412
	XIX.321	Amended	Feb 199
13	I.723,725,727	Repealed	Feb 160
16	I.101	Adopted	Apr 438
22	I. Chapter 3	Adopted	Jan 58
	XIII. Chapters 1-5	Adopted	May 537
25	I. Chapter 1	Amended	Apr 409
28	I.111	Amended	Jun 648
	I.902	Repromulgated	Jun 647

33	I.903	Amended	Feb 162
	I.903	Amended	Mar 282
	I.903	Amended	Mar 285
	I.903	Repromulgated	May 536
	I.906	Amended	Apr 416
	I.917	Repromulgated	Jan 28
	I.920	Repromulgated	Jun 646
	I.1709	Amended	Jun 647
	I.3905—3931	Amend/Repromul	Feb 181
	III.223	Amended	Apr 421
	III.2117	Amended	Mar 289
	III.2120	Adopted	May 537
	III.2201—2205	Adopted	Feb 162
	III.2203	Repromulgated	Mar 288
	III. Chapter 27	Amended	Jun 649
	III. Chapter 31	Amended	Mar 289
	III.5139	Adopted	May 536
	III. Chapter 53	Adopted	Apr 430
	III. Chapter 59	Adopted	Apr 421
	V.10303,10305	Amended	Jan 58
	V. Chapter 301	Amended	Apr 439
	VII. Chapters 151-163	Amended	Jun 654
	IX.1123	Amended	Apr 431
	XI.301	Amended	Mar 294
	XV.102	Amended	Jun 649
	XV. Chapter 3	Amended	Feb 178
	XV. Chapters 4,5,10	Amended	Jun 653
34	III.201	Amended	Feb 185
	III.701	Amended	Jan 47
	V.103	Amended	May 542
35	I.1709	Adopted	Feb 160
	I.1503	Repealed	Jun 645
	I.1722	Repealed	Jun 645
	IX.9503	Amended	Jun 644
37	III.711,713	Amended	Apr 432
42	I.1785,1789	Amended	Apr 448
	XIII.704	Adopted	Jun 672
	XIII.709	Amended	Jun 672
43	XIII. Chapters 1—29	Amended	Apr 442
	XV. Chapters 1—73	Amended	Apr 447
46	I.1105	Amended	May 534
	V.2801	Adopted	Apr 415
	V.3303	Amended	May 535
	V.3303	Repromulgated	Jun 645
	XXI.603	Amended	Apr 412
	XXIII. Chapter 1-9	Amended	Jun 656
	XXVII.310	Adopted	Apr 433
	XXXIII.301	Amended	Jun 657
	XXXIII.506	Adopted	Jun 662
	XXXIII. Chapter 15	Adopted	Jun 658
	XXXIII. Chapter 16	Adopted	Jun 661
	XXXVII.1107	Amended	Feb 191
	XLVII.306	Repeal/Repromul	Jun 663
	XLVII.307	Adopted	Jun 665
	LX. Chapter 21	Amended	May 544
	LXXXV.700	Amended	Jun 666
	LXXXV.704	Adopted	Jun 666

48	I.Chapter 53 I.17101—17125 I.2301 I.2315—2323 I.2371-23-95 XI.1309	Amended Adopted Amended Adopted Adopted Adopted	Apr 450 Apr 434 Mar 307 Feb 193 Jun 669 Jun 667
55	VII.317 VII.701	Amended Adopted	Jun 671 Jun 671
61	I.4307 I.4910 I.5301 V.Chapters 1—35	Amended Amended Adopted Amended	Mar 316 Jun 673 Feb 197 Feb 198
67	I.Chapter 1 III.2801,2802 III.2902 III.6501,6502 V.1103 VII.101 VII.1501	Amended Amended Amended Amended Amended Amended Amended	Apr 459 Apr 449 Feb 199 Apr 449 Feb 198 Mar 317 Jun 673
70	III.Chapter 13 III.1501,1503	Adopted Adopted	Mar 317 Mar 318
73	I.309,311,313 I.561,571 I.901	Amended Amended Adopted	Apr 463 Apr 463 Mar 318
76	V.701 VII.201 VII.203	Amended Amended Amended	Mar 321 Mar 323 Mar 323

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Department of Health and Hospitals Board of Embalmers and Funeral Directors

Embalmer/Funeral Director Examination Schedule

The Board of Embalmers and Funeral Directors will give the National Board Funeral Director and Embalmer/Funeral Director exams on Saturday, September 10, 1994 at Delgado Community College, 615 City Park Avenue, New Orleans, LA.

Interested persons may obtain further information from the Board of Embalmers and Funeral Directors, Box 8757, Metairie, LA 70011, (504) 838-5109.

Dawn Scardino
Executive Director

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

Community-Based and Rural Health Care Program

The Department of Health and Hospitals, Bureau of Health Resources Management, in accordance with provisions of Act 810 (Community-Based and Rural Health Care Fund), will accept letters of intent for the following:

1. Emergency Health Services. Small rural hospitals, defined herein, on the intended use of up to \$75,000 in state grants to strengthen the capability of small rural hospitals to provide high quality emergency health services to indigent and low income persons in rural areas. Small rural 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 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, and a final close out report must be submitted when the funds have been expended, but no later than the end of the fiscal year.

Letters of intent will be accepted until September 30, 1994, and processed according to receipt, and grants will be issued accordingly.

2. **Primary Care Clinic Grants.** Eligible applicants include existing federally funded community health centers; recipients of planning grants for Section 330 health centers; or public or nonprofit organizations located in federally designated medically underserved areas. Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals may prioritize requests based on the areas of most need. Funding is available to provide outpatient primary care services. Additionally, the proposal must include a needs assessment, a management plan, a detailed budget, and budget justification. The proposal, including any appendices, may not exceed 50 typed double-spaced, letter-sized pages. All interested applicants must submit a letter of intent by September 1, 1994, prior to submitting a completed application kit.

Application kits may be obtained by sending letters of intent to the Department of Health and Hospitals, Bureau of Health Resources Management, Box 1349, Baton Rouge, LA 70821-1349. Completed application kits will be accepted until November 1, 1994.

3. **Demonstration Grants.** Existing federally-funded community health centers or public or private nonprofit organizations located in local medically underserved communities or rural areas may apply for a demonstration grant to fund a project designed to innovatively, efficiently, and effectively develop and provide needed primary health care.

The Department of Health and Hospitals anticipates awarding demonstration grant(s) to innovatively develop primary care services in rural areas and local communities, including but not limited to such projects as the establishment of acquisition of mobile health clinics. The amount of available funds for this purpose is limited, and the grantee will be required to provide a 25 percent match to the funds; for example, \$100,000 state and \$25,000 applicant.

The proposal format should clearly describe the proposed project's goals and objectives and strategies to accomplish the goals and objectives. Application kits can be obtained from Bureau of Health Resources Management. Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals may prioritize requests based on the areas of most need. Funding is available to provide outpatient primary care services. Completed proposals must be sent to the Bureau of Health Resources Management, Box 1349, Baton Rouge, LA 70821-1349. Completed applications are due by November 15, 1994.

4. **State Matching Funds for Federal Grants.** Applications will be accepted for projects to provide community-based health services to indigent or low-income persons, as proposed in a federal grant application proposal. Applications are due by November 15, 1994.

5. **Physician Salary Subsidy.** Local health agencies or communities may apply for state matching funds for physician salary guarantees of \$100,000 annually in salary and benefits, to assist in recruiting or retaining primary care physicians in local communities and rural areas. State salary subsidies will not exceed \$50,000, and the local agency/community must demonstrate its ability to at least match the state amount. The

local agency/community match may include but is not limited to cash; fringe benefits; rent; clerical, medical records, and billing support; continuing education stipends(s); and medical malpractice coverage.

The Department of Health and Hospitals will contract directly with local health agencies, who in turn contract with physicians. As such, local health agencies must submit with their request for assistance under this provision, a copy of a proposed contract with a physician. Such contract must address the \$100,000 guarantee. The Department of Health and Hospitals will make no payments under this recruitment/retention incentive until the physician's actual received income and benefits are reconciled against his/her contract guarantees.

Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals may prioritize requests based on the health professional shortage area's ratio of population to primary care physicians.

It should be noted that the provisions of this notice are contingent upon the availability of funds.

Interested persons may submit letters of intent or request applications to the following address: Suzanne Lavergne, Bureau of Health Resources Management, Box 1349, Baton Rouge, LA 70821-1349.

A Technical Assistance Workshop will be held on Thursday, August 4, 1994 at 9 a.m., in the training room, third floor of the Department of Health and Hospitals, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to receive information about the application procedure for this program. Please contact Suzanne Lavergne at 504/342-1276 if you will attend this workshop session.

Rose V. Forrest
Secretary

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**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirement as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name and Number	Serial Number
Antilles Petroleum Corp.	Shongaloo	Branton Mitchell 001	021790
Arkansas Fuel Oil Co.	Olla	J L Hopkins Unit A-1	024706
B L S W Pleasure Corp., Inc. C/O S. H. Loe Oil Corp.	Olla	F M Kees B-2	024888
Bech Oil & Gas, Inc.	Lake Curry	E Fairbanks SWD 11-1	106515
Bech Oil & Gas, Inc.	Kincaid Bayou	Lewis Trust SWD 001	139888
Bell-new & Brasher	White Sulphur Springs	O N Edwards et al 002	058022
Blackwell Oil & Gas Co.	Caddo-Pine Island	Muslow 002	039228
H. J. Bonner	Monroe	J N Coon 001	140999
H. J. Bonner	Monroe	E Johnson 001	141020
H. J. Bonner	Monroe	Puckett 001	142773
H. J. Bonner	Monroe	B B Eubanks 001	142808
H. J. Bonner	Monroe	Garnier 001	142925
H. J. Bonner	Monroe	Milton Pickett 001	142975
H. J. Bonner	Monroe	T Johnson 002	143283
H. J. Bonner	Monroe	Redding 001	144254
H. J. Bonner	Monroe	Central Immigration N 006	145169
H. J. Bonner	Monroe	Central Immigration N 003	145283
Border Production Inc.	Caddo-Pine Island	Sartor 001	104546
Brock Exploration Corporation	Bayou Choctaw	Morley Cypress 009	145752

Operator	Field	Well Name and Number	Serial Number
Ben H. Busby Oil Account	Caddo-Pine Island	Hale 001	046696
Ben H. Busby Oil Account	Caddo-Pine Island	Hale 002	047066
Ben H. Busby Oil Account	Caddo-Pine Island	Hale 003	046819
Ben H. Busby Oil Account	Caddo-Pine Island	Hale 004	046886
CN Operating Company	Caddo-Pine Island	Nelson 003	057853
CN Operating Company	Caddo-Pine Island	Nelson 002	059200
CN Operating Company	Caddo-Pine Island	Nelson 004	061803
CN Operating Company	Caddo-Pine Island	Swann A 001	096133
CN Operating Company	Caddo-Pine Island	Swann A 002	098369
CN Operating Company	Caddo-Pine Island	Nelson 001	099060
CN Operating Company	Caddo-Pine Island	Swann A 003	099258
C & R Oil	Tullos-Urania	Woods 001	166062
Capital Marketing Company	Vinton	Vinton Pet Co Enterprise 001	071685
Cardinal Drig Co.	Monroe	Kenneth Lee CGN 3-B 001	092984
Cardinal Drig Co.	Monroe	Halsell 001	088576
Central Min Oper Co, Inc.	Unknown Pass	7900 RA SUC;SL 5449 002	204447
Clay O & G, Serio, Dellwood	Trout Creek	Gilbert Duke et al 001	116031
S P Cole	Zwolle	W O Wright 001	059406
Crescent Production Co Inc.	Sicily Island	Tensas Delta 004	046300
Dar-Lee Exploration Inc.	Patton Church	TL RB SUA;RENFROW 001	210508
Dar-Lee Exploration Inc.	South Jena	Rozier 001	211263
J. T. Davidson	Ora	Frost LBR IND A 021	034116
J. T. Davidson	Ora	M S Futch 007	035991

Operator	Field	Well Name and Number	Serial Number
Don H. Davis et al	Red River-Bull Bayou	Calhoun 004	042282
Dow Mineral & Royalty	Bracky Branch	Helen M Price 001	208332
Dow Mineral & Royalty	Bracky Branch	NAC RA SUQ;Shaver 003	209725
Dow Mineral & Royalty	Red River-Bull Bayou	B B Box 001	110886
Fred Y. Dreasler	Monroe	Fred Y Dreasler 001	087923
Equity Monroe Associates	Monroe	Lieber Heirs 002	146362
Equity Monroe Associates	Monroe	A D Cockrell 002	147855
Equity Monroe Partners	Monroe	J W Perry 002	147912
Equity Monroe Partners	Monroe	Brown Macon Ridge 006	148738
L. R. Fitzgerald Production Co.	Dixie	Muslow Oil Co 004	155303
L. R. Fitzgerald Production Co.	Dixie	Muslow Oil Co 008	157402
Flynn Energy Corporation	Mermentau	Eleanor B Thibodeaux 001	197502
Clifford W. Futch	White Sulphur Springs	Charley Whatley et al 001	072356
Eddie Gandy, Jr.	Pendleton-Many	Gandy 001	089734
Eddie Gandy, Jr.	Pendleton-Many	Gandy 002	098279
E G Gasperson	Longwood	Noel-Fly-Sharp 003	094860
Samuel L. Gayles	Caddo-Pine Island	Jessie Gayle 001	091489
Samuel L. Gayles	Caddo-Pine Island	Jessie Gayle 002	159943
Samuel L. Gayles	Caddo-Pine Island	Jessie Gayle 003	160378
Samuel L. Gayles	Caddo-Pine Island	Jessie Gayle 004	160379
A. Paul Gilbert	Caddo-Pine Island	G W Hurdle 001	027818
Glass Drilling Co.	Caddo-Pine Island	Ballard 001	201376
Glass Drilling Co.	Caddo-Pine Island	Ballard 002	201377

Operator	Field	Well Name and Number	Serial Number
Glass Drilling Co.	Caddo-Pine Island	Ballard 003	201378
Kenton E. Gullledge	Greenwood-Waskom	K E Gullledge Unit 002	051033
H & H Oil and Gas Corp.	Monroe	Monroe Gas Unit 015	084931
H & H Oil and Gas Corp.	Monroe	Monroe Gas Unit 014	084816
Bobby R. Hale	Caddo-Pine Island	Gregory 001	176879
Bobby R. Hale	Caddo-Pine Island	Wells 001	176878
Bobby R. Hale	Caddo-Pine Island	Wells 002	177416
A. N. Hardy	Monroe	Weems 001	092319
Robert W. Harvey	Milestone Forks	H A Turner SR et al SWD 015	114577
Ransom Horne, Jr.	Caddo-Pine Island	Caddo Parish School Board 001	102013
Ransom Horne, Jr.	Caddo-Pine Island	Thacker /D/ 002	144124
Ransom Horne, Jr.	Caddo-Pine Island	Thacker D 003	147853
Ransom Horne, Jr.	Colgrade	Browning 003	170454
Ransom Horne, Jr.	Columbia	Joiner 001	150900
Ransom Horne, Jr.	Columbia	Joiner 001D	152356
Ransom Horne, Jr.	Monroe	Rich Land Seed Co Inc et al A 001	139808
Ransom Horne, Jr.	Monroe	Rich Land Seed Co Inc et al A 002	139809
Ransom Horne, Jr.	Monroe	Rich Land Seed Co Inc et al F 002	139853
Ransom Horne, Jr.	Monroe	Rich Land Seed Co Inc et al F 001	140001
Ransom Horne, Jr.	Monroe	Rich Land Seed Co Inc et al G 001	141220
Ransom Horne, Jr.	Monroe	Rich Land Seed Co Inc et al G 002	141221
Haroldson L. Hunt Jr Trust est.	Ora	P L Williams 001	034265
N. W. Hunter et al	Spider	Mrs M M Anders 001	023128
J & M Oil	Vidalia	Albert Nichols 001	039903

Operator	Field	Well Name and Number	Serial Number
J & M Oil	Vidalia	Albert Nichols SWD 002	040057
L & W Gas Production Co.	Monroe	R A Whittman 001	095575
James M. Law	Caddo-Pine Island	Sun Oil Co. 001	145629
Gordon M. Leblanc	Monroe	W H Smith 001	084026
M & S Production, Inc.	Larto Lake	Humble Tensas Delta SWD B-1	025826
M & S Production, Inc.	Larto Lake	WX A RA SU64;HTD 001	130022
M & S Production, Inc.	North Shongaloo-Red Rock	L TOK RA SUA;A C Burns 001	182602
M-X Oil & Gas, Inc.	Profit Island	E Patin SWD 001	971880
J. G. Madden	Longwood	Miller A-1	062276
J. G. Madden	Longwood	Miller A-2	066697
Don Manchester	Nebo-Hemphill	George Griffing et al 001	190500
Mary Ann Petroleum, Inc.	Caddo-Pine Island	VUA;Caldwell 001	078573
Mary Ann Petroleum, Inc.	Caddo-Pine Island	VUA;MRS M D Caldwell 002	177548
Mary Ann Petroleum, Inc.	Caddo-Pine Island	Hunter Company 001	198282
Mary Ann Petroleum, Inc.	Caddo-Pine Island	Mrs M D Caldwell B 001	201910
Mary Ann Petroleum, Inc.	Caddo-Pine Island	Mrs M D Caldwell SWD 001	157954
McGoldrick Oil Company	Bayou Twisty	Scott et al 001	175536
Jim McMurrey	Ora	P J Tucker A 003	033791
Meyes and Jenkins	Converse	Koppers Co Inc 001	034968
Gary Morgan	Sarepta	McCann 001	194370
W S Moses	California Bayou	Reeves G 001	113289
F. J. Muller	Darrow	6500 SUA;Gulf Belle Helene 001	074099

Operator	Field	Well Name and Number	Serial Number
John C. Newsham	Donner	P R Melancon SWD 001	970068
Oil Well Pipe & Supply Inc.	Bayou Sorrell	VUA;E B Schwing Jr 001	168625
Osage Petroleum Corporation	Manifest	La Central Oil & Gas 007	072143
H. I. Patterson et al	Longwood	Breard-Wheeler Unit 001	084456
Perkins Oil Properties	Bayou San Miguel	P E Gewin 001	157122
Phoenix Oper Co Inc-New Amer	Caddo-Pine Island	Thigpen-Herold D 002	199101
Phoenix Oper Co Inc-New Amer	Caddo-Pine Island	Thigpen-Herold D 003	199102
Phoenix Oper Co Inc-New Amer	Caddo-Pine Island	Thigpen-Herold D 004	199103
Phoenix Oper Co Inc-New Amer	Caddo-Pine Island	Thigpen-Herold D 005	199104
Phoenix Oper Co Inc-New Amer	Caddo-Pine Island	Thigpen-Herold D 006	199105
Billy A. Poisso	Little Creek	D R Cockerhan 001	171343
R.M.G. Operating	Caddo-Pine Island	Sartor 001	211704
R M R Oil Company	Joyce	Tremont 003	049006
Raf Natural Gas Corp.	Longwood	Myra Mitchell 002	050371
Raf Natural Gas Corp.	Longwood	Chastex-Soemo et al 001	068618
Betty B. Ramsey	Monroe	Betty B Ramsey 001	094098
Rault Petroleum Corporation	Monroe	Norsworthy 001	106916
Jacky G. Rivers	Caddo-Pine Island	Dance 001	193552
Robert F. Roberts	Greenwood-Waskom	Jackson 001	085534
G L Roth & W L Sawyer	Monroe	Roth-Sawyer 001	091212
SKZ Inc.	North Cankton	Richard SWD 001	151925

Operator	Field	Well Name and Number	Serial Number
A. E. Sandidge	Swan Lake	Sandidge SWD 001	137276
A. E. Sandidge	Swan Lake	Sandidge 001	137494
B F Sawyer	Monroe	B F Sawyer 001	092050
Taylor G. Sawyer	Monroe	Taylor G Sawyer 001	093605
George R. Schurman	Wildcat-NO La Shreveport Dist	The Continental Group 001	171154
Simco Oil Co Inc.	Little Creek	D R Cockerham 002	092378
Sinclair Oil & Gas	Southwest Lake Boeuf	Segretto SWD 001	970103
Sohio Petroleum Co.	Ora	P L Williams 002	034266
T W & J B Sowell	Greenwood-Waskom	Herold - Agurs 002	043010
States Oil Company	Greenwood-Waskom	Tisby et al 001	046264
States Oil Company	Greenwood-Waskom	Lloyd Napier 002	050311
Russell D. Stayton	Monroe	Stayton 001	098782
Stenco c/o D. A. Milton	Olla	Randall SWD 004	177354
Stroud Bros Oil Co	Grogan	T L Haire A-1	073529
Taylor Britt Company, Inc.	Holly	M P Rogers 001	033931
Taylor Britt Company, Inc.	Holly	VUA;H G Clark Jr 001	169754
Terra Real, Inc.	Northeast Greensburg	Ethyl Travis 001	198991
Roy Terry	Greenwood-Waskom	Roy Terry 001	046867
Texas Gulf Producing	Ragley	Herpin Sand Unit 8 001	067882
3P Production Co.	Cowpen Creek	Louise Davis et al 001	159938
Roy Lavel Tolbert	Bee Brake	Fred K Conn B 002	174052
J. C. Trahan Drlg. Contr Inc.	Monroe	Elder S Bailey 001	086572

Operator	Field	Well Name and Number	Serial Number
J. C. Trahan Drlg. Contr Inc.	Monroe	Sam Ouchley 001	085952
Vandervoort Inc. & Carl W. Jones et al	Coushatta	T J Wilkinson 002	073982
Doyle Waites	Greenwood-Waskom	Doyle Waites 001	051324
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey A 012	057889
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey A 008	057890
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey A 011	058698
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey A 001	063408
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey A 003	174938
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey A 002	174939
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey D 001	061929
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 005	097552
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 001	145630
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 004	145631
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 002	145632
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 003	148446
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 006	174286
Watson Oil & Gas Corp.	Greenwood-Waskom	Gray-Hickey 007	174312
Watson Oil & gas corp.	Greenwood-Waskom	Gray-Hickey SWD 001	971984
Watson Oil & Gas Corp.	Longwood	Shufford 001	169818
Watson Oil & Gas Corp.	Longwood	Shufford 002	171608
Watson Oil & Gas Corp.	Longwood	Shufford 003	171609
Eugene P. Webb	Bayou Bleu	Schwing L & S 001	049199
Mr. W. J. Wegman, Jr.	Monroe	M A Norwood 001	089732

Operator	Field	Well Name and Number	Serial Number
Mr. W. J. Wegman, Jr.	Monroe	Bice 001	091213
Mr. W. J. Wegman, Jr.	Monroe	White 001	096258
R. A. Whittington	Caddo-Pine Island	Caddo Levee Board B 024	058076
R. A. Whittington	Caddo-Pine Island	Caddo Levee Board B 016	057158
R. A. Whittington	Caddo-Pine Island	Caddo Levee Board B 018	057160
R. A. Whittington	East Hope	M H Waller 001	114712
Williams Enterprises, Inc.	North Shongaloo-Red Rock	J B Elkins et al 001	062111
J. V. Wynn	Mira	Dominick C 001	184351
J. V. Wynn	Caddo-Pine Island	Ragan A 001	182277
J. V. Wynn	Caddo-Pine Island	Rex Anthony 002	182656
J. V. Wynn	Caddo-Pine Island	Kelly B 001	188773
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 001	199313
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 002	199949
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 003	199950
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 004	199951
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 005	200277
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 008	200278
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 007	200279
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 006	200280
J. V. Wynn	Caddo-Pine Island	Minnie Wynn 009	200310
J. V. Wynn	Caddo-Pine Island	Rex Anthony 001	201847
J. V. Wynn	Caddo-Pine Island	Burns 001	202134

H. W. Thompson
Assistant Secretary

POTPOURRI

Department of Natural Resources Office of the Secretary Fishermen's Gear Compensation Fund

Claims

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 16 claims in the amount of \$47,427.63 were received in the month of June 1994. One claim was paid and four claims were denied.

Loran coordinates of reported underwater obstructions are:

27825	46862	Terrebonne
27926	46848	Terrebonne
28158	46900	Terrebonne

A list of claimants, and amounts paid, may be obtained from Martha A. Swan, Administrator, Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

Department of Social Services Office of Community Services

Low-income Home Energy Assistance Program (LIHEAP)—1995 Block Grant Funds

The Department of Social Services, Office of Community Services will hold public hearings concerning the use and distribution of federal fiscal year 1995 LIHEAP block grant funds in accordance with the LIHEAP State Plan for 1995. The primary purpose of this program is to reduce the burden of home heating and cooling expenses for low-income households through direct payments to home energy suppliers. The second goal is to conserve energy and reduce energy costs of low-income households through the weatherization of dwelling units. The final goal is to provide for energy crisis intervention in instances of weather related and supply shortage emergencies. Delivery of services will be via contractual agreements between local community action agencies or local governmental bodies and the Department of Social Services, Office of Community Services. Each parish will receive a portion of funds based on the number of low-income households residing in the parish and Louisiana's total grant.

Louisiana's share of FFY 1995 LIHEAP block grant funds is anticipated to be near \$12.3 million. However, the final appropriation will be determined by Congress and the President. Should Louisiana's funding level for 1995 be significantly reduced, benefit levels to eligible households will be decreased effective with the new program year beginning October 1, 1994.

Copies of the 1995 Low-Income Home Energy Assistance Program Plan are available by writing to Brenda Kelley, Assistant Secretary, Office of Community Services, Box 3319, Baton Rouge, LA 70821. Comments regarding the 1995 LIHEAP Plan will be accepted through August 17, 1994.

Public hearings regarding the LIHEAP plan will be held at the following times and places:

10 a.m., Tuesday, August 2, 1994, 122 St. John Street, Second Floor Conference Room, Monroe, LA;

10 a.m., Wednesday, August 3, 1994, 900 Murray Street, Room 209, Alexandria, LA;

10 a.m., Thursday, August 4, 1994, 333 Laurel Street, Eighth Floor Conference Room, Baton Rouge, LA;

10 a.m., Friday, August 5, 1994, 2026 St. Charles Avenue, Magnolia Room, New Orleans, LA.

Gloria Bryant-Banks
Secretary

POTPOURRI

Department of Social Services Office of The Secretary

Child Care and Development Block Grant Public Hearing

The Department of Social Services, Office of the Secretary, Child Care Assistance Program is providing notice that there will be a public hearing regarding the proposed State Plan for the Child Care and Development Block Grant. The public hearing will be held at 9:30 a.m., August 10, 1994, 755 Riverside, Second Floor Auditorium, Baton Rouge, LA.

At the public hearing all interested persons will have the opportunity to provide recommendations orally or in writing on the proposed state plan. Written comments will be accepted through August 30, 1994. Comments may be addressed to Linda Beauvais, Administrator, Child Care Assistance Program, Box 91193, Baton Rouge, LA 70821. The state plan is available for review at any regional CCAP Office.

Gloria Bryant-Banks
Secretary

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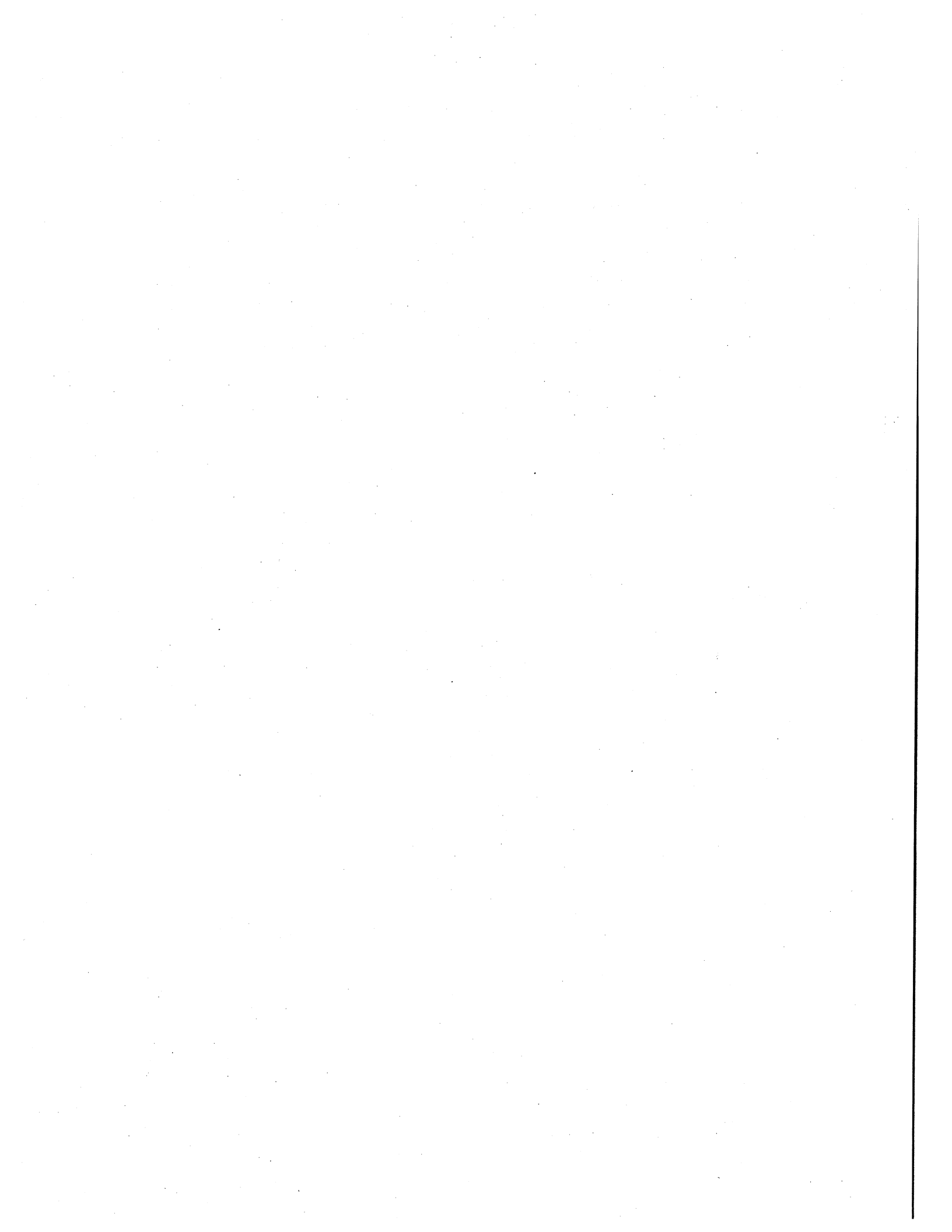
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