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Executive Orders

EXECUTIVE ORDER 92-40

WHEREAS, federal funds often flow through state government in the form of "block" grants and other mechanisms for projects on which institutions of higher education can provide services through subgrants and/or contracts; and

WHEREAS, at present there exists no central state governmental mechanism to identify or promulgate such funding opportunities; and

WHEREAS, the creation of such a mechanism would be beneficial inasmuch as it would make it possible for higher education institutions to provide more proposals of higher quality from which agencies could choose; and

WHEREAS, this mechanism would ultimately lead to higher quality performance on federally funded projects and higher levels of long term federal funding; and

WHEREAS, this mechanism will also make it possible for Louisiana to enhance the quality of statewide proposals submitted to the federal government;

NOW THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the constitution and laws of the state of Louisiana, do hereby create and establish the Louisiana Higher Education Grants Coordinating Committee within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Louisiana Higher Education Grants Coordinating Committee is hereby created and established within the Executive Department, Office of the Governor.

SECTION 2: The duties and functions of the Louisiana Higher Education Grants Coordinating Committee (herein after referred to as the "committee") include, but are not limited to: collecting, organizing and distributing to public and private institutions of higher learning within the state information regarding the availability of any federal grants that have come or are likely to come to the state for which higher education institutions might be able to provide services. This would include any federal legislative initiatives that might result in such grants.

SECTION 3: The committee shall also make recommendations to individual agencies regarding how they might complete such grants to assure a timely and significant proposal response on the part of the higher education community.

SECTION 4: All departments and agencies of the state are authorized and directed to inform the committee of the availability of any federal grants that have come or are likely to come to the state for which higher education institutions might be able to provide services (including any federal legislative initiatives that might result in such grants.)

SECTION 5: The committee will consist of 12 members appointed by the governor from a list submitted by the Louisiana Board of Regents. Eight members will be from public institutions of higher education representing the different higher education systems in the state. Four

members will be from private institutions of higher education who are members of the Louisiana Association of Independent Colleges and Universities. All members of the committee shall serve at the pleasure of the governor.

SECTION 6: The committee will be operated by the Louisiana Board of Regents and housed in premises under the control of that body.

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

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 fifth day of June, 1992.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 92-41

WHEREAS, a medical crisis exists within the Department of Public Safety and Corrections, and there is a need for additional medical professionals and personnel to resolve this crisis; and

WHEREAS, this lack of medical professionals and personnel within the Department of Public Safety and Corrections poses a severe threat to the Department of Public Safety and Corrections' ability to serve its public function; and

WHEREAS, the Louisiana National Guard has both the personnel and equipment suitable to resolve this medical crisis;

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

SECTION 1: That the National Guard provide necessary manpower and equipment to assist the Department of Public Safety and Corrections to alleviate the medical crisis at all institutions.

SECTION 2: That this executive order shall have retroactive application from June 5, 1992.

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 sixteenth day of June, 1992.

Edwin W. Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

Emergency Rules

DECLARATION OF EMERGENCY

Department of Culture, Recreation and Tourism Office of State Parks

The Department of Culture, Recreation and Tourism, Office of State Parks, in accordance with R.S. 56:1681-1690 and the Administrative Procedure Act, R.S. 49:953(B), is adopting an emergency rule, for 90 days, regarding state parks.

It has become apparent that some state parks are experiencing over-use in day-use areas to the extent that the life and safety of park users as well as the protection of the park property and resources are being jeopardized. In this connection, an emergency rule is hereby established to be effective beginning Saturday, July 18, 1992. The purpose of the rule is as follows:

"To provide the establishment of a day-use carrying capacity on state park areas consistent with the availability of facilities, staff capability, preservation and protection of the natural and historic resources, and the safety and protection of the park visitor."

EMERGENCY RULE

A carrying capacity for day-use activities shall be established for each state park unit, and the criteria for the establishment of such carrying capacity may include but not be limited to such factors as:

1. the availability of facilities to reasonably accommodate the proposed use (number of picnic sites, number of parking spaces, rest room capabilities, etc.); and
2. the availability of staff to properly service and protect the park users as well as the park resources.

The unit manager shall recommend the optimum day-use carrying capacity subject to the approval of the assistant secretary.

Once the established day-use carrying capacity is reached, access to the park shall be closed by the unit manager or his designee. As the capacity is reduced by users leaving the park, visitors may be admitted until the carrying capacity is once again reached.

In an effort to facilitate the control of the day-use carrying capacity for state park (excluding state commemorative areas), no passenger buses nor occupants thereof shall be admitted to state parks for day-use activities on weekends or holidays during the period Memorial Day through Labor Day.

Mark H. Hilzlim
Secretary

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Amendments to Bulletin 741

The Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and approved the following amendments to Bulletin 741, Louisiana Handbook for School Administrators, as an emergency rule.

Emergency adoption effective June 26, 1992 is needed so that schools can address all policy changes prior to the beginning of the 1992-93 school year.

Amend Standard 2.016.01 to read:

"Full-time secondary certified teachers in schools including grades six through 12 (or any combination thereof) may be allowed to teach a maximum of two periods in one subject out of their field of certification if they have earned 12 hours in that subject. Secondary certified teachers shall not teach below the sixth grade level."

Under Standard 2.026.03, amend the procedure block to read:

"A. Name, social security number or a state assigned identification number, date of admission, and date of birth."

Amend Standard 2.037.12 to read:

"The minimum instructional day for a full day kindergarten program shall be 330 minutes."

Amend Standard 2.037.13 to read:

"For grades K-12 the minimum school day shall include 330 minutes of instructional time exclusive of recess, lunch and planning periods."

Amend Standard 2.055.15 to read:

"All students, upon entering Louisiana schools for the first time, shall present an official birth certificate, an official social security card or be assigned a state identification number, and a record of immunization."

Amend procedure block to add:

"If no official Social Security Card is available and the student has a number, other official records may be used for verification upon the discretion of appropriate school officials, i.e., driver's license, a state identification form for other purposes, etc."

Delete Standard 2.055.16 and procedure block

Under Standard 2.055.17, amend #1 to read:

"1. Have attended a full day public or private kindergarten for a full year or"

Add Standard 2.090.03 and procedure block:

"School systems providing preschool programs for regular students shall offer a curriculum that is developmentally appropriate.

Experiences shall be provided in all developmental areas—physical, social, emotional, and intellectual."

Add Standard 2.090.04 and procedure block:

"Suggested Minimum Time Requirements for Preschool:

Teacher directed activities (Whole and small group)	35%
Student initiated activities (Learning Centers)	35%
Snack and restroom time	10%
Rest Periods	20%
The above suggested minimum time requirements	

shall be flexibly scheduled to meet the developmental needs of young students."

Renumber Standard 2.090.04 to 2.090.06 and amend to read and add procedure block:

"Minimum Time Requirements for Kindergarten:

Teacher directed activities (Whole and small group) 40%
 Student initiated activities (Learning Centers) 35%
 Snack and restroom time 10%
 Lunch
 Rest period 15%

The above minimum time requirements shall be flexibly scheduled to meet the developmental needs of young students."

Amend Minimum Requirements for High School Graduation to read:

"(Effective Beginning 1992-93 and Thereafter for Incoming Freshmen)"

ENGLISH 4 units

Shall be English I, II, and III, in consecutive order; and English IV or Business English.

MATHEMATICS 3 units

Shall be Algebra I and one of the following options:

1. Algebra II and Geometry; or 2. Algebra II or Geometry and one of the following: Advanced Mathematics, Calculus, Consumer Mathematics, Business Mathematics, or Integrated Algebra/Geometry (for incoming freshman 1990-91 thereafter)

SCIENCE 3 units

Shall be biology and two of the following: General Science or Physical Science, but not both, Earth Science, Chemistry, Physics, Aerospace Science, Environmental Science, Principles of Technology, Biology II, or Vocational Agriculture I and II for one unit of required science credit (for incoming freshmen 1989-90 and thereafter).

SOCIAL STUDIES 3 units

Shall be American History; one-half unit of Civics and one-half unit of Free Enterprise, and one of the following: World History, World Geography, or Western Civilization.

HEALTH AND PHYSICAL EDUCATION 2 units

Shall be Health and Physical Education I and Health and Physical Education II, or Adapted Physical Education for eligible special education students.

NOTE: The substitution of R.O.T.C. is permissible. A maximum of four units may be used toward graduation.

ELECTIVES 8 units

TOTAL 23 units

Under Glossary of Terms, amend Pre-Kindergarten to read:

"Pre-School."

Carole Wallin
 Executive Director

DECLARATION OF EMERGENCY

Department of Education
 Board of Elementary and Secondary Education

Bulletin 1706-Exceptional Children's
 Act Implementation

The State Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act, R. S. 49:953(B) and approved the following revisions to Bulletin 1706, regulations for the Implementation of the Exceptional Children's Act, R. S. 17:1941 et seq., effective June 25, 1992.

This rule was adopted to stabilize Special Educational Services for the 1992-93 school year for children who are, or may be disabled until the issues of Special Educational funding are addressed in the new Minimum Foundation Program in 1993-94. Special educational services are to remain status quo.

	Public Allotments Ratios Based on Teachers	Non-Public Allotments Ratios Based on Membership
Ed. Assessment Teachers	1:160 or major fraction thereof	1:3500 or major fraction thereof
School Psychologists	1:160 or major fraction thereof	1:3500 or major fraction thereof
Social Workers	1:210 or major fraction thereof	1:4500 or major fraction thereof

Pupil appraisal operating expenses are a flat \$7,500 plus \$2.50 times the prior year's student membership. These funds are to be used exclusively for the support of the operation of the pupil appraisal program which may include such expenditures as clerical, materials and supplies, test equipment and travel for pupil-appraisal staff. It is not for the hiring of personnel other than pupil appraisal clerical staff.

Carole Wallin
 Executive Director

DECLARATION OF EMERGENCY

Department of Education
 Board of Elementary and Secondary Education

Bulletin 1858
 Louisiana State Plan for Adult Education
 FY 1989-93

The Board of Elementary and Secondary Education, at its meeting of June 25, 1992 exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted the proposed amendments to the Louisiana State Plan for Adult Education for FY 1989-1993, effective July 26, 1992.

These amendments to the Louisiana State Plan for Adult

Education were previously adopted as an emergency rule and printed in full in the April, 1992 issue of the *Louisiana Register*. Re-adoption as an emergency rule is necessary in order to continue the amended state plan until it can be adopted as a rule.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

**Board of Elementary and Secondary Education
Regulations for Model Early
Childhood Programs**

The State Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and adopted the regulations for Model Early Childhood Programs as printed below.

Emergency adoption of these regulations was necessary so that LEAs, who recruit students during the summer, can implement the new eligibility requirements for program participation. Effective date of emergency rule is June 25, 1992.

**REGULATIONS FOR MODEL EARLY
CHILDHOOD PROGRAMS**

Program Philosophy. Local early childhood programs shall adhere to the development philosophy proven to be effective in early childhood education. Inherent in this philosophy is the provision of a child-centered program directed toward the development of cognitive, social, emotional, communication, and motor skills in a manner and at a pace consistent with the needs and capabilities of the individual child.

Eligibility Criteria. Projects shall serve children who are as follows:

1. one year younger than the age required for kindergarten;
2. at-risk of being insufficiently ready for the regular school program based on screening results;
3. residing with a family whose mean income is not more than 75 percent of the state median income for a family of the same size;
4. from families that agree to participate in various activities associated with the program.

Teacher Qualifications. Teachers employed at the local school system for these projects shall be Louisiana-certified in the following:

1. nursery school; or
2. kindergarten.

Class Size Limitations. The class assignment of teachers and aides for the program shall be as follows:

Enrollment	Teacher	Aide
16-20	1	1

Length of School Day. The school day that systems operate (half-day or full-day) shall consist of one of the following:

1. half-day - 165 minutes of teacher-directed/child-initiated activities;
2. full-day - 330 minutes of teacher-directed/child-initiated activities.

Screening Instruments. The screening of children potentially

eligible for program participation shall be accomplished through the use of those sections in one or more of the following instruments specifically designed for the identification of high-risk four-year-olds:

1. Brigance Pre-School Screen for Three and Four-year-Old Children;
2. Developmental Indicators for the Assessment of Learning (DIAL-R);
3. Denver Developmental Screening Test;
4. Early Recognition Intervention Systems (ERISys);
5. Battelle Developmental Inventory - Screening Test. Program Design

Local early childhood programs shall be broad in scope and sensitive to the individual needs and capabilities of the young child. Such programs shall offer a curriculum in which each child is an active participant in varied activities targeted toward the development of specific concepts and skills.

The program shall be based on the following principles concerning human growth and development and learning relative to four-year-olds:

1. a child learns as a total person (emotionally, socially, physically, and intellectually);
2. children grow at individual rates;
3. children learn through their senses (hearing, seeing, touching, tasting, and smelling);
5. children learn through attitudes as well and through content; and
6. children learn through play.

STANDARDS

A. Language Development. The program environment shall be designed to stimulate total language development. Learning centers shall be available that provide for the following:

1. oral language expression and listening skills development;
2. oral language recorded through the use of experience charts and stories;
3. vocabulary extension through discussion and verbalization of ongoing activities;
4. reading to children daily;
5. informal exploration of picture books and other written materials;
6. visual and listening experiences; and
7. extension of language concepts and skills through informal teaching and play activities.

B. Physical Development. Activities related to the child's physical development shall be included on a daily basis. Learning centers shall be available that provide for the following:

1. opportunities to hop, skip, jump, stretch, balance, climb, catch, and bend according to the child's individual developmental level;
2. manipulation of blocks, wheel and push toys, puzzles, and other manipulatives to develop small-muscle and eye-hand coordination;
3. opportunities to prepare and taste a wide variety of food and to discuss healthful eating habits;
4. opportunities to experience many dimensions of size and space; and
5. outdoor, as well as indoor exploration.

C. Social-Emotional Development. The environment (which includes teachers and aides) shall be responsive to the needs of the child, and should ensure that the child is free

from undue frustration. The specified activities shall fit the child's developmental level. The classroom environment and the learning activities shall:

1. indicate to the child that his abilities are acceptable;
2. reflect an attitude of respect and warmth toward each child;
3. provide for block-building, manipulatives, social living areas, and group participation;
4. help each child recognize the needs of others; and
5. assist each child to trust the environment and the adults within that environment.

D. Cognition, Problem-Solving, and Mathematical Development. Opportunities for the child to interact with the environment in the development of basic mathematical concepts and problem solving skills shall be provided on a daily basis. Learning centers shall be available that provide opportunities to:

1. compare and contrast; to see, hear, taste, smell, and touch;
2. take apart, act on, and use diverse materials such as water, sand, earth, clay, puzzles, natural objects, and mechanical objects;
3. explore, manipulate, and count concrete objects;
4. recognize numerals through various materials including puzzles, games, recipes, books, pictures, and manipulative cut-outs;
5. develop number concepts through experiences with quantity such as weighing and measuring, pouring liquids, stacking and building with blocks, and manipulating clay and other plastic materials; and
6. development and awareness of time intervals and spatial relationships through activities such as planning the day, marking the calendar, recognizing special days and holidays, exploring the surrounding space, mapping the classroom, and talking about over and under, up and down, and far and near.

E. Creative Development. Activities shall be provided that stimulate and enhance creative and imaginative development. Learning centers shall be available that provide opportunities for:

1. observation of the environment;
2. exploration through the use of a variety of art materials;
3. development of the ability to distinguish between fantasy and reality;
4. encouragement of imagination through play, verbalization, and artistic creation;
5. exploration of movement with and without music;
6. enjoyment of music through songs, listening, and musical games;
7. exploration of creative dramatics through storytelling, role-playing, and puppetry; and
8. dictation of experience stories and recording of verbal experiences.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Education
Board of Elementary and Secondary Education

Technical Institute Name Change

The State Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and changed the name of Ville Platte Technical Institute to Charles B. Coreil Technical Institute.

This name change was adopted as an emergency rule in order for the name change to be effective at the beginning of the new fiscal year. Effective date of this emergency rule is July 1, 1992. All correspondence and budget will be under the new name.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Education
Board of Elementary and Secondary Education

Revised Temporary Employment Permit

The State Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act R.S. 49:953(B) and adopted the revised Temporary Employment Permit policy as stated below.

This policy will remain in effect until July 1, 1995.

The revised Temporary Employment Permit policy was adopted as an emergency rule in order to provide school systems adequate time to employ persons who might meet the new policy. Effective date of this policy is June 25, 1992.

TEMPORARY EMPLOYMENT PERMIT

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

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

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

An individual can be reissued a permit under the board policy only if evidence is presented to the State Department of Education that the NTE has been retaken within one year from the date the permit was last issued. A temporary employment permit may be issued no more than five times.

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

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Department of Education Board of Elementary and Secondary Education

Revised FY 92-93 Tuition Exemption Guidelines

The State Board of Elementary and Secondary Education, at its meeting of June 25, 1992, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and adopted the following revised Teacher Tuition Exemption Guidelines for FY 1992-93 as an emergency rule, effective June 25, 1992.

Emergency adoption is necessary in order for these guidelines to be in place for the 1992-93 school year.

TUITION EXEMPTION CONTINUING EDUCATION PROGRAM FOR TEACHERS

I. INTRODUCTION

The Louisiana Legislature, during the Regular Session of 1986, passed Act 1010 (R.S. 17:6.3) (a) and (c). This statute provides for a continuing education program at Louisiana colleges and universities under which four-year degreed teachers may take courses in their teaching areas. The Teacher Tuition Exemption Program is funded through the Louisiana Quality Education Support Fund 8(g). Regulations for the Tuition Exemption Program, adopted by the Board of Elementary and Secondary Education, are subject to administrative interpretation by the Louisiana Department of Education, Bureau of Continuing Education, Box 94064, Baton Rouge, LA. 70804-9064, telephone (504) 342-3414.

II. APPLICATION FORMS

A. DISTRIBUTION

1. The Louisiana Department of Education prepares and distributes the forms.
2. Participating parish or city school systems receive forms from the Department of Education.
3. Participating non-public schools receive forms from the State Department of Education.
4. Participating applicants obtain forms from either the employing school or school board office. Regulations are to be posted and disseminated to the teachers at the employing school.

B. COMPLETION

1. Read the directions on the application.
2. Complete Section I and sign.

3. Have the employing authority complete Section II and sign.

4. Have the university official complete Section III and sign.

5. Present the application to appropriate university officials. (You must inquire at the registrar's office at the university in which you plan to enroll as to the specific university official to whom this form is submitted.)

C. If the application form is incomplete, inaccurate, or submitted to the university past the deadline date, the applicant will be declared ineligible and must pay the tuition costs.

D. If an applicant lists more courses than he/she is allowed during a semester the first eligible course(s) listed will be considered eligible for tuition exemption.

NOTE: All statements preceded with an asterisk(*) indicate clarifications or additions to the current guidelines.

III. DEADLINES

A. APPLICATIONS AND COURSES

1. Regular Semester or Quarter

a. Application forms must be submitted to the specific university official no later than the tenth official university class day.

b. Courses to be reimbursed shall be courses for credit that begin and end within a regular semester or quarter session and that meet the time requirements established by the Board of Trustees for the state's colleges and universities.

2. Summer Session

a. Application forms must be submitted to the specific university official no later than the tenth official university class day.

b. Courses to be reimbursed shall be courses for credit that meet the time requirements established by the Board of Trustees for the State's Colleges and Universities.

3. Application forms for classes for which registration is held at a time later than regular registration must be submitted during registration or on the first day of the class. Universities will submit these application forms as a supplemental billing.

B. UNSUCCESSFULLY COMPLETED COURSES

1. By the end of the semester, applicants who do not successfully complete the course for which tuition exemption was applied must pay the tuition as determined by the college and university in which the applicant was enrolled.

2. Applicants who drop, withdraw, or resign from courses will be billed the tuition amount as determined by the university by the Louisiana State Department of Education.

3. If an applicant drops a course and/or adds a course, this change must be made on the Teacher Tuition Exemption Application form within 10 days after the first day of class.

4. If an applicant drops a course within the university refund period, the applicant must be withdrawn by the university prior to the State Department of Education review. If this is not done and the university is paid for the student, the university must reimburse the State Department of Education.

IV. ELIGIBILITY

A. PARTICIPANTS

Any full-time, four-year degreed, elementary or secondary classroom teacher who is regularly employed or on approved sabbatical leave from a State-approved public or non-public elementary or secondary school, listed on the Annual School Report as a member of the faculty of a State-

approved public or non-public elementary or secondary school under the jurisdiction of the State Board of Elementary and Secondary Education, is eligible.

For purposes of this program only, "teacher" does not include assessment teacher; school psychologist or other ancillary personnel who do not hold Louisiana teaching certificates; administrator; supervisor; or non-degreed VTIE personnel.

Applicants receiving other financial assistance (i.e. stipends, graduate assistantships) specified for tuition/registration costs are ineligible for teacher tuition exemption.

B. COLLEGES AND UNIVERSITIES

Tuition reimbursement shall be limited to the following Louisiana colleges and universities as specified in Act 1010:

Delgado College	Northeast Louisiana Univ.
Grambling State Univ.	Northwestern State Univ.
LA State Univ./Alexandria	Southeastern Louisiana Univ.
LA State Univ./Baton Rouge	Southern Univ./Baton Rouge
Louisiana State Univ./Eunice	Southern Univ./New Orleans
LA State Univ./Shreveport	Southern Univ./Shreveport
LA State Univ. Med.Center	University of New Orleans
Louisiana Tech University	Univ. of Southwestern LA.
McNeese State University	Centenary College
Our Lady of Holy Cross College	Tulane University
Nicholls State University	Xavier University
Louisiana College	Loyola University

APPLICATION FOR ADMISSION TO COLLEGES AND UNIVERSITIES MUST BE IN COMPLIANCE WITH THE COLLEGES' OR UNIVERSITIES' REGULATIONS, ENTRANCE REQUIREMENTS, DEADLINES, AND ANY OTHER CONDITIONS FOR ADMISSIONS.

C. COURSES

*1. Credit courses in the applicant's area of job assignment are eligible. Courses outside this area are eligible if the applicant is addressing a certification area of critical shortage that the local school system has identified and submitted to the State Department of Education. The city/parish superintendent's signature verifying that the applicant is addressing an area of critical shortage must be present on the application at the time of submission to the university. Final review/approval of courses shall be the responsibility of the Louisiana Department of Education, Bureau of Continuing Education.

2. Course load shall not exceed one regular semester or quarter course offering for each fall or spring session or two courses offerings in the summer session, if funds are available.

3. Course load for applicants who are on approved sabbatical leave for educational purposes shall not exceed three course offerings for each fall/spring session that the applicant is on such leave, if funds are available.

4. Core courses for applicants in pursuit of an advanced degree are as follows (only one of each is permissible):

- a. tests and Measurements;
- b. educational Psychology;
- c. educational Research (how to do research);
- d. philosophy of Education;
- e. statistics (educational);
- f. history of Education;
- g. introduction to Computer Literacy;
- h. introduction to the Education of Exceptional Children;
- i. reading in content areas;

j. classroom Behavior Management.

5. Any coursework required of an applicant as a result of an unsatisfactory evaluation pursuant to direction from his employing school board.

*6. Distance Learning courses which are live and interactive courses are eligible. The courses must be for three hours of graduate college credit approved by the university or college governing board. The Department of Education requires that a course outline be provided to the Bureau of Continuing Education prior to Department of Education Teacher Tuition Exemption approval.

D. TUITION

1. Tuition, for the purposes of this program, is defined as the building use fee per semester hour. The state will not reimburse for student activity fees. Tuition exemption shall be limited to the amount of tuition assessed for on-campus courses. A portion of this amount for a course is not allowed.

2. Reimbursement shall be made to the colleges and universities by the State Department of Education from state-appropriated 8(g) funds.

3. Public and non-public teachers are eligible to receive tuition waivers from public or non-public universities (registration fee and building use fee per semester hour). The amount paid by the state for any tuition imposed by or applicable to non-public college shall be equal to but not greater than the highest tuition charged by a public college or university in this state.

V. INELIGIBILITY

Reimbursement shall not be paid on the following:

1. courses that are not successfully completed by the end of the semester or quarter;
2. non-credit courses or audit courses;
3. non-instructional credit courses such as examination courses;
4. courses in theology or divinity;
5. courses in administration or supervision (supervision of student teaching only if deemed a critical shortage area by the city/parish superintendent);
6. correspondence courses;
7. dropped, failed, or incomplete courses;

NOTE: If, within 60 days after the close of the semester, the "I" is removed, no payment of tuition will be demanded. The student will be responsible for providing to the Bureau of Continuing Education written verification including the student's name, address, social security number and grade from the Office of the Registrar that the "I" has been removed within the designated time.

8. courses for which application forms were submitted to the university past the deadline date;

9. courses for which application forms were incomplete or inaccurate;

10. courses for applicants who are declared ineligible to participate;

11. courses for which funds are not appropriated;

12. courses for applicants who are receiving retirement funds from a state retirement system;

13. courses that do not meet the time/class meeting requirements set forth by the Board of Trustees for the state's colleges and universities;

14. courses taken by independent study (the single exception is in the case of either thesis or dissertation research); tuition reimbursement may be made for only three

hours of independent study and the topic of the research must be directly related to the applicant's current job assignment; verification in writing must be made by the applicant's major professor and attached to the application prior to approval by the State Department of Education; no approval will be made for topics related to administration or supervision;

15. courses for which the participant is not eligible under these guidelines;

16. courses involving infractions of the tuition exemption regulations or university policy;

*17. courses taken by teachers who are in default to the state of Louisiana for the Professional Improvement Program (PIP), the Tuition Exemption Program as it existed prior to July 1, 1985, or the present Tuition Exemption Program, the Post-Baccalaureate Scholarship, or the Education Majors Scholarship.

VI. APPEALS

*1. Any applicant who is denied tuition exemption for a college course may appeal to the Louisiana Department of Education, Bureau of Continuing Education, Box 94064, Baton Rouge, LA. 70804-9064, no later than 15 days following the date of notification of denial.

2. Any applicant who is denied tuition exemption by the Department of Education for a college course shall have a right to a due process appeal before the State Board of Elementary and Secondary Education. The applicant should contact the Executive Director of the State Board of Elementary and Secondary Education, Box 94064, Baton Rouge, LA. 70804-9064, no later than 15 days following the notification of denial from the Department of Education.

VII. COLLEGE AND UNIVERSITY PROCEDURES

A. At the time of registration, the applicant shall be exempt from paying tuition for eligible coursework covered in this program.

B. The last date for the colleges and universities to accept applications for tuition exemption shall be the tenth official university class day of a regular semester or quarter or summer session.

*C. Each college and university shall submit to the Department of Education, within 20 days after the tenth day of class of each fall and spring session, an invoice equal to one half of the amount of tuition assessed to that university.

Within 20 days after the close of the semester, the college/ university shall submit a final billing together with an alphabetical list of the names and addresses of applicants who received a W, F, or I grade, final payments to the university will be withheld until the reports are received. Invoicing for the summer session is covered in the following Paragraph "D". The invoices submitted must reflect the actual course in which the applicant is enrolled regardless of the course listed on the Teacher Tuition Exemption Application.

D. All 8(g) funds for the Teacher Tuition Exemption Program are strictly limited to services rendered within the fiscal year, July 1 through June 30. Summer sessions generally cover portions of June, July, and August; therefore, the tuition reimbursement of invoice issued by a university or college must be prorated. The first invoice will cover the summer session only through June 30 and will be applied against the current fiscal year budget. The remainder of the summer session tuition invoice covering the period starting July 1 to the end of the summer session will be paid from 8(g) funds in the following fiscal year.

E. Any student enrolled in a course that has the signature of approval of the dean (or his/her designee) for tuition exemption, and the course is subsequently determined to be ineligible by the State Department of Education, will be allowed to drop the course at that time regardless of the university's drop policy and not be required to pay a drop fee. If the student chooses to remain in the course, he/she will be responsible for the appropriate university fees.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor
Commission on Law Enforcement and Administration of
Criminal Justice

Sentencing Commission

Sentencing Guidelines Grid

The Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, Louisiana Sentencing Commission, acting through its executive director exercised the emergency provision of the Administrative Procedure Act, R.S.49:953(B) to amend the emergency rule published on pages 566 through 569 of the May, 1992 *Louisiana Register* to correct the content of cell 8E of the Sentencing Guidelines Grid of the Felony Sentencing Guidelines, retroactive to May 20, 1992 and effective for 120 days.

Emergency adoption of the amendment to correct the guidelines grid is necessary in order to reflect accurately the version of the Grid adopted by the Sentencing Commission in May 1992, to avoid potential errors in sentencing by the Courts, and 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 4. Louisiana Sentencing Guidelines Tables §403. Tables for Determining Designated Sentence

A. Sentencing Guidelines Grid

	A	B	C	D	E	F	G
	(5.0 +)	(4.9-4.0)	(3.9-3.0)	(2.9-2.0)	(1.9-1.0)	(0.9-0.1)	(0)
MURDER AG RAPE DIST DRUGS SCH I NARC AG KIDNAPPING	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE	LIFE
ARM ROBBERY FORC RAPE MANSLAUGHTER AG BURGLARY KIDNAPPING II	360-330	300-270	240-210	180-150	126-96	102-72	90-60
AG BATTERY ROBBERY I DIST DRUGS SCH II NARC SIMP RAPE	240-210	180-150	126-96	108-84	84-72	72-60	60-36
MOLEST JUVEN PURSE SNATCH BATTERY II	144-120	108-84	84-72	66-54	60-48	54-36	48-24
SIMP BURGLARY INHAB DWELL. SIMP ESCAPE	240-160	225-150	210-140	195-130	180-120	165-110	150-100
CARNAL KNOWL OF JUVENILE SIMP BURGLARY SIMP CR DMG PAP I > = \$0.000	120-96	84-66	72-54	42-30	36-24	36-18	36-18
FORGERY IND BEHAV JUV ILL POSS STOL GDS I > = 500 THEFT I > = 300	225-150	210-140	195-130	180-120	165-110	150-100	135-90
FORGERY IND BEHAV JUV ILL POSS STOL GDS I > = 500 THEFT I > = 300	72-60	66-54	46-36	36-24	30-18	(30-18)	(30-15)
SIMP ARS. I > = 300 UNLAW ENTRY PL BUS SIMP CRIM DNIG PROP II > = 300	210-140	195-130	180-120	165-110	150-100	135-90	120-80
SIMP ARS. I > = 300 UNLAW ENTRY PL BUS SIMP CRIM DNIG PROP II > = 300	60-48	30-24	24-18	(24-18)	(24-15)	(24-12)	(24-12)
ILL POSS STOL GOODS II > = 100 POSS DRUGS SCH I, Non-Narcotic THEFT II > = 100	195-130	180-120	165-110	150-100	135-90	120-80	108-54
ILL POSS STOL GOODS II > = 100 POSS DRUGS SCH I, Non-Narcotic THEFT II > = 100	48-36	24-18	(24-18)	(24-15)	(21-12)	(21-12)	(21-12)
CONTRABAND POSS DRUGS SCH II, Non-N, III, IV SIMP ARS. II < 300	180-120	165-110	150-100	135-90	120-80	108-54	72-36
CONTRABAND POSS DRUGS SCH II, Non-N, III, IV SIMP ARS. II < 300	36-24	(24-18)	(24-15)	(24-15)	(18-12)	(18-12)	(18-12)
CRIM AGNST NATURE PROSTITUTION SIMP ESCAPE SIMP POSS MARI	165-110	150-100	135-90	120-80	108-54	72-36	48-24
CRIM AGNST NATURE PROSTITUTION SIMP ESCAPE SIMP POSS MARI	24-18	(24-15)	(24-12)	(24-12)	(15-12)	(15-12)	(15-12)
CRIM AGNST NATURE PROSTITUTION SIMP ESCAPE SIMP POSS MARI	150-100	135-90	120-80	108-54	72-36	48-24	24-12

institutional services provided, will receive partial reimbursement of the cost incurred to receive these services. This program is designed to help defray the expenses incurred by individuals and families as a result of the rising cost of long term care services resulting from expanded facility requirements mandated by federal law. Reimbursement of expenses incurred by individuals in long-term care facilities shall be limited to \$4,200 per year or \$350 per month whichever is less. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

The provisions of R.S. 40:2801 and 2802 are hereby adopted and the following interpretative guidelines are being promulgated to assure fair and equal treatment of all individuals requesting reimbursement for incurred long term care medical expenses.

Application for Reimbursement. Any individual residing in a long-term care facility, as defined under R.S. 40:2801 and 2802, may request reimbursement of medical expenses by making application to the Governor's Office of Elderly Affairs. Approved application forms shall be made available through nursing homes and ICF-MR facilities or by writing to the Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA. 70898-0374.

Eligibility Determinations. Individuals shall be determined eligible for reimbursement of incurred long-term care facility expenses based on the following criteria:

A. the individual is a patient in a facility licensed as: a nursing home in accordance with R.S. 40:200 9.3 et seq.; or licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq.;

B. payment of nursing home or ICF-MR services is not being made by any insurance or other health care coverage plan; and

C. the individual has a net income for the prior calendar year of less than \$60,000 or a joint net income of less than \$120,000.

Net income shall be determined as follows:

A. gross income using the Internal Revenue Service definition of adjusted gross income for Federal Income Taxes less:

1. any non-reimbursed health care expenses including long-term care services, personal care attendants, adaptive medical equipment, and other medical services recognized under state law;

2. federal and state taxes paid including income, property, and inheritance taxes; and

3. any health insurance premiums paid.

Individuals applying for reimbursement of incurred medical expenses shall receive written notification regarding the determination of eligibility. Applications which are incomplete or questionable (i.e. expenses reported exceed all income) shall be returned for additional information prior to making a final determination. Applicants shall be afforded the right to appeal any adverse decision based on additional information or administrative error. The Office of Elderly Affairs current appeals procedures shall be utilized for all appeals requested. The agency shall make every effort to resolve disputes informally prior to proceeding with a formal hearing.

Reimbursement Limits. Reimbursement of incurred medical expenses for long-term care services shall be limited to \$350 per month or \$4,200 per year for each eligible individual residing in a long-term care facility. Payment shall

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, Sentencing Commission, LR 18:50 (January 1992), amended LR 18:

Michael A. Ranatza
Executive Director

DECLARATION OF EMERGENCY

Office of the Governor
Office of Elderly Affairs

Long-Term Care Assistance Program Implementation

The Office of the Governor, Office of Elderly Affairs, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule.

R.S. 40:2801 and 2802 established the Louisiana Long-Term Care Assistance Program and authorized implementation through adoption of emergency rules. Under this program, individuals with net incomes below \$60,000 in long term care facilities (nursing homes and intermediate care facilities for the mentally retarded) who do not have insurance or other health care coverage plans which cover the cost of

be made on a monthly basis to the individual at the facility where they reside. Reimbursement payments shall not be forwarded to any other address. Where the individual has moved, the check shall be returned to the Governor's Office of Elderly Affairs.

Change of Address. Individuals who move from one facility to another should immediately notify the Governor's Office of Elderly Affairs of the change in address to prevent interruption of reimbursement.

Bobby Fontenot
Director

DECLARATION OF EMERGENCY

Department of Health and Hospitals Louisiana Health Care Authority

Effective July 1, 1992, the following emergency rule implements the annual service agreement between the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA), as required by Act 390 of 1991. Emergency rulemaking is necessary to assure the delivery of an appropriate volume of quality health care services during Fiscal Year 1992-93 to patients who utilize the services of the LHCA Medical Centers, formerly referred to as "charity hospitals." Under Act 390, DHH maintains programmatic responsibility for indigent health care, while LHCA is responsible for the administration of the State Medical Center system.

ANNUAL SERVICE AGREEMENT BETWEEN THE DEPARTMENT OF HEALTH AND HOSPITALS AND THE LOUISIANA HEALTH CARE AUTHORITY

Introduction

The service agreement for state fiscal year 1992-93 is entered into by the Department of Health and Hospitals (DHH) and the Louisiana Health Care Authority (LHCA) in compliance with Act 390 of 1991. The agreement is a cooperative endeavor agreement in accordance with provisions of Article VII, Section 14C of the Louisiana Constitution.

I. Definitions

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

B. *Overcollections*—any monies from Medicare, Medicaid or other third party payor, or from direct patient payments, collected by or on behalf of the medical centers operated by the LHCA in excess of the amounts budgeted in the General Appropriations Bill for FY 92-93, as enacted, for operating expenses, as certified by the commissioner of administration and the Joint Legislative Committee on the Budget.

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

II. General Agreement

The Louisiana Health Care Authority acknowledges that the Department of Health and Hospitals is legally re-

sponsible for the development and provision of health care services for the uninsured and medically indigent citizens of Louisiana, as well as preventative health services for the entire population.

The LHCA agrees to provide inpatient and outpatient hospital services on behalf of the Department of Health and Hospitals. The LHCA acknowledges that the provision of services to the medically indigent, to the uninsured and to others with problems of access to health care is its highest priority.

DHH agrees to work cooperatively with the Authority to provide acute mental health services at Authority facilities, in accordance with a memorandum of understanding between DHH and the LHCA.

III. Provision of Adequate Health Care Services

In accordance with the intent of Act 390 of 1991, the Louisiana Health Care Authority will strive to provide health services of sufficient quality and volume to meet the needs of the uninsured and medically indigent citizens of Louisiana. The LHCA and DHH agree that for FY 1992-93, "adequate services" shall be considered to consist of the following:

A. Those major services that are available at the medical centers on June 30, 1992 to any bona fide resident and taxpayer of the state of Louisiana determined to be uninsured, underinsured, or medically indigent and that are funded in the General Appropriation bill for FY 1992-93, provided that such appropriated funds are made available to the medical centers.

B. Adequate service provision shall also require that the medical centers maintain policies of access to services governed by the following:

1. The medically indigent or uninsured shall be afforded first priority for admission for any form of treatment available at the particular medical center.

2. Those persons who are determined not to be medically indigent or uninsured shall be admitted on a space available basis and shall be reasonably charged for treatment or service received.

3. Emergency treatment shall not be denied to anyone.

IV. Reduction, Elimination or Relocation of Services

A. The LHCA shall secure written approval from the secretary of DHH at least 60 days in advance of any reduction, elimination or relocation to another medical center of any major programs or services, or establishment of Centers of Excellence that require shifting of major services provided on the date of this agreement. DHH will not arbitrarily withhold approval as long as appropriate services continue to be provided and the change does not adversely effect any of the DHH's budget units.

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

V. Service Improvement and Development

The LHCA recognizes the need to improve and expand services in the medical centers in order to more fully meet the health care needs of the uninsured and medically indigent citizens of Louisiana. The Authority will work to improve access to care, placing highest priority on the following:

A. improved access to prenatal and HIV clinics in every medical center;

B. reduced waiting times for all outpatient services for which there exist medically inappropriate delays in scheduling appointments;

C. improved access to emergency services.

VI. Financing Arrangements

A. DHH agrees not to adjust interim Medicaid payment rates, target rates, disproportionate share formulas, or to amend the Medicaid State Plan as it relates to inpatient and outpatient hospital services, without timely notice to the LCHA CEO.

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

C. DHH agrees not to process any BA-7's where the means of financing would reflect use of the overcollections by the LHCA or its facilities without prior written approval of the LHCA CEO.

D. DHH and LHCA agree that no later than March 1, 1993, and annually thereafter, a meeting will be held to determine the amount of overcollections, if any, to be transferred from the Louisiana Health Care Authority to the Department of Health and Hospitals, as required by law.

E. LHCA agrees to provide DHH with monthly reports detailing collections by source of payment for each of its medical centers.

F. With regard to the liability for payment for services for those inpatients who are classified as self pay, the LHCA agrees to adhere to DHH Policy No. 4600-77 (DHH Liability Limitation Policy), until such time as a revised policy may be promulgated by the Authority through the Administrative Procedure Act.

G. Costs associated with the transition from DHH to LHCA administration of the medical centers and not otherwise specified in this agreement will be paid by the agency that is budgeted funds to cover those costs. Where a cost may be incurred in an area in which there is an incomplete functional separation between DHH and LHCA, each agency will bear its proportionate share of costs, based upon the approved cost allocation plan for the particular unit or upon another appropriate methodology for determining proportionate cost, as agreed by the two agencies.

H. LHCA shall not shift monies specifically earmarked in the budget process to alternative uses without prior written approval from the secretary of the Department of Health and Hospitals.

This includes outpatient clinic services, AIDS clinics and medication, and nurse stipends.

VII. Annual Revision of Service Agreement

DHH and the LHCA agree to revise this service agreement on annual basis, as required by law, and to promulgate the agreement through the Administrative Procedure Act. The draft annual agreement shall be published in the *Louisiana Register* in August of each year, in order for significant changes to be considered in the budget process for the ensuing fiscal year.

J. Christopher Pilley
Secretary
Department of Health and Hospitals

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

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Management and Finance

Financial assistance to AIDS/HIV individuals

Effective June 30, 1992, the Department of Health and Hospitals, Office of Management and Finance, HIV Program Office is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule regarding the implementation of a program to provide financial assistance to eligible, low-income individuals disabled by AIDS or HIV related illness in the payment of individual or group health care insurance premiums. Funds were awarded for this program on April 1, 1992. This emergency rule is necessary to insure that the program can be implemented July 1, 1992 to begin making premium payments in a timely manner.

Definitions. When used in this subpart, unless expressly stated otherwise or unless the context of subject matter requires a different interpretation the following definitions apply.

A. *Program* — the health insurance continuation program for persons disabled by AIDS or HIV related illness.

B. *Health Insurance* — insurance or an employee benefit plan which reimburses all or part of costs incurred as a result of sickness, ailment or bodily injury.

C. *Health Insurance Costs* — the premiums paid by or on behalf of a person disabled by AIDS or HIV related illness for health insurance.

D. *Disabled by AIDS or HIV Related Illness* — persons who are diagnosed by a physician as being disabled by acquired immune deficiency syndrome (AIDS) or human immune deficiency virus (HIV).

E. *Poverty Guideline* — the official federal income poverty guideline applicable to a family of the same size as the applicant's as published annually in the *Federal Register*.

F. *Service Agency* — a non-profit agency receiving funding from the Louisiana Department of Health and Hospitals for HIV related services.

G. *Department* — the Louisiana Department of Health and Hospitals.

H. *Income* — as defined in the official federal income poverty guideline applicable to a family of the same size as the applicant's as published annually in the *Federal Register*.

Eligibility Requirements. Persons eligible for assistance under this program must:

1. be a person disabled as a result of AIDS or HIV-related illness;
2. be a Louisiana resident and reside in Louisiana;
3. reside in a family whose income is less than or equal to 165 percent of the annual federal poverty guideline;
4. have available resources less than \$4,000, based on Medicaid guidelines;
5. be eligible to continue an existing health insurance policy.

Application Guidelines

A. Persons applying for benefits under this program must:

1. complete and submit an application for assistance to their local department funded service agency in order that the agency may determine whether the person is eligible for this program;

2. provide documentation of disability as a result of AIDS or HIV related illness completed by a physician at the time of application;

3. provide information as may be necessary for the payment of health insurance costs by the department including but not limited to the name and address of the employer and/or health insurance company, the last day of employment, the type of policy, the amount of the premium and the date by which the premium must be paid.

B. The application must be completed and submitted to the service agency by the person applying for benefits under this program, or by an authorized representative of such individual.

Authorization Period. Authorization for benefits under this program may be granted for a period of up to one year. Continued eligibility may be reauthorized for additional periods of six months or less, as determined by the program.

Termination. Eligibility for benefits under the health insurance continuation program may be terminated if the beneficiary:

A. subsequently is determined to reside in a family whose income is greater than 165 percent of the federal poverty guideline;

B. subsequently is determined to have assets of greater than \$4,000;

C. no longer maintains a permanent residence in Louisiana;

D. does not abide by the guidelines of the program; or
E. is deceased.

Reporting Requirements. Service agencies will submit reports to the department as required under the department and Ryan White Uniform Reporting System.

Fair Hearing. Persons applying for and denied benefits under this program are entitled to request 1) an informal conference or 2) a fair hearing to review the decision of the service agency.

Payment of Health Insurance Costs

A. Payment of the health insurance costs for persons eligible under this program will be made directly to the employer or insurance company.

B. Payments under this program are limited to a maximum of \$500 per month. Payment of premium amounts in excess of \$500 will be the responsibility of the individual. Payments will not include further payments for co-payments, deductibles, or any other costs incurred by the person with AIDS.

Confidentiality. The confidentiality of HIV and AIDS related information is required in accordance with R.S. 40:38.5. Each disclosure of confidential HIV-related information must be accompanied by the appropriate release.

Forms. The Department of Health and Hospitals, Office of Management and Finance, HIV Program Office has developed forms for use in determining individual eligibility. These include an application form, a final eligibility checklist, an eligibility screening decision path, a release of information form, a physician's statement form, and any additional forms deemed necessary.

J.Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Health and Hospitals
Office of Management and Finance

Fees for Nursing Facility Beds

The Department of Health and Hospitals, Office of Management and Finance, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule.

Public Law 102-234, enacted on December 12, 1991, authorized states to adopt provider specific fees for medical services which include: nursing facility services; intermediate care facility services for the mentally retarded and developmentally disabled; and pharmacy services. This emergency rule is being adopted to enact state legislation authorizing the department to establish provider specific fees for the above listed services. Under this rule, the following fees are being adopted effective for services provided on or after July 1, 1992.

Nursing Facility Bed Fee: \$10 per day, per bed in use.

ICF-MR Facility Bed Fee: \$30 per day, per bed in use.

Pharmacy Services Prescription Fee: \$.10 per prescription or refill.

Emergency rule adoption is necessary to enhance federal funding and provide for financing of Medicaid health care services. This emergency rule is effective for the maximum period allowed under R. S. 49:954(B) et seq.

The provisions of R.S. 46:2601 through 2605 are hereby adopted and the following regulatory requirements for payment of fees are being promulgated as required under R.S. 46:2605(B)(1).

Nursing Facility Services. A bed fee shall be paid by each facility, licensed as a nursing home in accordance with R.S. 40:2009.3 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be \$10 per day, per bed utilized for provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for nursing services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for during a temporary absence from a nursing facility shall be subject to the \$10 per day fee. Likewise, any bed or beds under contract to a hospice shall be subject to the fee for each day payment is made by the hospice. Contracts, agreements, or reservations whether formal or informal shall be subject to the \$10 per bed, per day fee only where payment is made for nursing services available or provided. Nursing homes subject to bed fees shall be required to provide documentation of utilization for all licensed beds in conjunction with payment of fees on a monthly basis in the form of a utilization report provided by the department.

Intermediate Care Facility for the Mentally Retarded (ICF-MR) Facility Services. A bed fee shall be paid by each facility, licensed as an intermediate care facility for the mentally retarded in accordance with R.S. 28:421 et seq., for each bed utilized for the provision of care on a daily basis. The fee shall be \$30 per day, per bed utilized for provision of care. A bed shall be considered in use, regardless of physical occupancy, based on payment for ICF-MR services available or provided to any individual or payer through formal or informal agreement. For example, a bed reserved and paid for

during a temporary absence from a facility shall be subject to the \$30 per day fee. Likewise, any bed or beds under contract to a hospice shall be subject to the fee for each day payment is made by the hospice. Contracts, agreements, or reservations whether formal or informal shall be subject to the \$30 per bed, per day fee only where payment is made for nursing services available or provided. ICF-MR facilities subject to bed fees shall be required to provide documentation of utilization for all licensed beds in conjunction with payment of fees on a monthly basis in the form of a utilization report provided by the department.

Pharmacy Services. A prescription fee shall be paid by each pharmacy and dispensing physician for each out-patient prescription dispensed. The fee shall be \$.10 per prescription dispensed by a pharmacist or dispensing physician. Where a prescription is filled outside of Louisiana and not shipped or delivered in any form or manner to a patient in the state, no fee shall be imposed. However, out-of-state pharmacies or dispensing physicians dispense prescriptions which are shipped, mailed or delivered in any manner inside the state of Louisiana shall be subject to the \$.10 fee per prescription. Pharmacies and dispensing physicians subject to prescription fees shall be required to provide documentation of utilization for all medications dispensed on a monthly basis in the form of a utilization report provided by the department.

Transportation Services. The fee for transportation services authorized under R.S. 46:2605(A)(1)(f) shall be set at zero pending federal designation of transportation services as a medical provider grouping under P.L. 102-234. Medical transportation providers shall not be required to provide utilization data under this rule.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

**Sanitary Code, Chapter XIII
Mechanical Waste Water Treatment Plant**

The Department of Health and Hospitals, Office of Public Health, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to amend the Louisiana Sanitary Code, Chapter XIII, Appendix A, VI., Mechanical Waste Water Treatment Plant, in part, more specifically as follows.

Add: 6.6.1 to read as follows:

When manufacturers of individual mechanical waste water treatment plants cease operation in the state, or related equipment suppliers cease operation, or extenuating circumstances arise, or testing laboratories or other unbiased institutions providing testing and other evaluation services to manufacturers cease such services, the chief public health engineer may, on a case by case basis, evaluate and approve alternate equipment for individual mechanical waste water treatment plants, as per "Standard Number 40 Relating to Individual Aerobic Plants" (NSF Standard Number 40), as revised May, 1983, e.g., per sections 1.1, 1.2, and 3. of NSF

Standard Number 40.

Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.); LAC 33:IX.709, 711; R.S. 40:2, 40:4, and 40:5; and Louisiana Sanitary Code, Chapter XIII require sewage effluent to meet secondary treatment standards, as a minimum. The inability to supply alternate equipment when a company and/or manufacturer, or testing laboratory/unbiased institution ceases operation may cause an individual mechanical waste water treatment plant to discharge raw/untreated sewage, thereby creating a situation of endangering the public health. The effective date of this emergency rule is July 3, 1992.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medicaid-Excess Income Eligibility

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

Section 4723 of Public Law 101-508 authorizes states to provide Medicaid health care coverage to individuals whose incomes are in excess of federal limits based on payment of a premium equal to the income above the federal income standard. Under this statutory option, Medicaid of Louisiana is expanding coverage to aged, blind, and disabled individuals in nursing facilities whose incomes are above the federal CAP of \$1,266 per month but below the cost of care. While other individuals may also benefit from this expansion of coverage, this option will primarily benefit patients of nursing facilities whose incomes are insufficient to cover the cost of care. It is projected that 300-500 nursing facility patients, currently receiving limited state funded insurance coverage will benefit from this coverage expansion. While Medicaid expenditures will increase by approximately \$5,000,000 per year, total state expenditures will decline from savings in the cost of providing 100 percent state funded reimbursement of incurred medical expenditures. This rule is effective July 1, 1992 and is being adopted to enhance federal funding through refinancing of state expenditures. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Individuals applying for Medicaid health care coverage who would otherwise be ineligible based on excess income, shall be allowed to pay a premium equal to the amount of income in excess of the maximum income authorized to purchase Medicaid coverage in accordance with Section 1903(f) of the Social Security Act and Louisiana's state plan for Medicaid. Provision of Medicaid health care coverage through premium purchase shall be governed by all applicable federal guidelines and the state's approved Title XIX Plan Agreement with the Health Care Financing Administration.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

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

Medicaid-Personal Care Attendant Waiver Services

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

Under the provisions of Section 1915(c) of the Social Security Act, states may provide services not generally reimbursable by Medicaid to groups of individuals in the community who meet the qualifications for institutional care. Such programs are known as Home and Community Based Services (HCBS) waivers. Waivers are submitted to the Health Care Financing Administration (HCFA) of the Department of Health and Human Services (DHHS) for approval. Services under an approved waiver are reimbursed with a combination of state and federal funds at the current service match rate. Waiver recipients are also eligible for all services available under the state plan.

Louisiana currently has two approved and operating Home and Community Based Services waivers. The Adult Day Health Care waiver serves a maximum of 300 elderly and adult disabled individuals who are eligible for nursing facility care, but who choose instead to receive day health services and live in their own homes. The Mental Retardation/Developmental Disabilities (MR/DD) waiver serves a maximum of 1,596 mentally retarded and developmentally disabled individuals who receive any or all of an array of 10 possible services in the community rather than institutional services in an Intermediate Care Facility for the Mentally Retarded (ICFMR).

The rule establishes a Home and Community Based Services waiver known as the Personal Care Attendant waiver. The waiver application has been approved by HCFA for services beginning July 1, 1992. Under this waiver, personal care attendant services are available to a maximum of 20 individuals who meet certain medical and financial criteria during the first waiver year, 22 the second waiver year, and 24 the third waiver year. Financial eligibility is established according to existing long term care criteria, including deeming of income, spousal impoverishment, and resource limits. The maximum income available to the individual is three times the Supplemental Security Income (SSI) amount. Personal needs allowance for waiver applicants is also three times the SSI amount.

Services under the waiver are restricted to individuals who:

1. are disabled according to Medicaid criteria. If the client is SSI-eligible, he/she is deemed to have met this requirement. If not SSI-eligible, a disability determination must be made as part of the financial eligibility process;
2. meet level of care criteria for nursing facility level of institutional care;
3. are between 18 and 55 years of age when admitted to the waiver. Those attaining higher ages will be permitted to continue in the waiver as long as continuous certification is maintained;

4. have lost sensory or motor functions to such an extent that they require assistance with personal care needs, domestic or cleaning needs, dressing and undressing, moving into and out of bed, ambulation, and related services;

5. require at least 14 hours a week of personal assistance, which services are necessary and sufficient to prevent or remove the client from placement in an institutional setting;

6. are capable of directing the activities of the person providing the services;

7. have gross income less than 300 percent of the SSI amount;

8. meet other income and resource limitations applicable to individuals institutionalized in a nursing facility.

Only individuals meeting these criteria will be considered for Personal Care Attendant Waiver services. Applicants in each service area who meet all the criteria above shall be ranked by degree of need using the Degree of Need formula. Those with the highest scores fill the slots allocated to the provider in their area in that order. Subsequent new or vacated slots will be filled by applicants having the highest scores in that service area at the time the unoccupied slot becomes available.

Special benefits available to waiver recipients which are not available to other Medicaid recipients are limited to personal care attendant services. Services are provided by licensed Personal Care Attendant (PCA) agencies who choose to enroll specifically to be providers for this waiver. In addition to licensing requirements for PCA services, providers of waiver services are required to conform to regulations contained in the Personal Care Attendant Waiver Provider manual. Those provisions expressly provide for a strong case management component comprised of formulation of a comprehensive plan of care, and continuing case management responsibilities on the part of the agency.

Adoption of this emergency rule is necessary to implement services in keeping with the terms of the waiver approval. This emergency rule is effective for the maximum period allowed under R.S. 49:954(B) et seq.

EMERGENCY RULE

Personal care attendant waiver services are provided under the provisions of the approved waiver document, and requirements and guidelines contained in the Personal Care Attendant Waiver Provider manual.

J. Christopher Pillely
Secretary

DECLARATION OF EMERGENCY

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

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

Act 991 of 1991 (R.S. 40:2721 through 2736) authorizes the Department of Health and Hospitals to enact rules regarding the practice of Utilization Review in Louisiana. These rules were compiled at the recommendation of an ad-

visory committee composed of the secretary of the Department of Health and Hospitals, or his designee, and a member appointed by the secretary, the commissioner of insurance, or his designee, and a member appointed by the commissioner.

The Joint Health and Welfare Committee and the Joint Committee have legislative oversight of the emergency rules promulgated to implement Act 991 of 1991.

The purpose of these rules and regulations is to: promote the delivery of quality health care in a cost effective manner; foster greater coordination between payors, private review agents, and health care providers; protect patients, businesses, and health care providers by ensuring that private review agents are qualified to perform utilization review activities and by permitting informed decisions on the appropriateness of medical care; and ensure that private review agents maintain the confidentiality of medical records in accordance with applicable state and federal law.

EMERGENCY RULE

The following regulations pertain to the practice of Utilization Review in Louisiana.

Definitions. For the purpose of these rules and regulations the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

Act—Act 991 of 1991 requiring certification of persons or entities conducting utilization review as private review agents in the state of Louisiana.

Appeal or reconsideration—a written request by the patient, enrollee, subscriber, member, or provider of record to the private review agent to reconsider an adverse determination.

Department—the Department of Health and Hospitals.

Enrollee—an individual who has contracted for or who participates in coverage under an insurance policy, a health maintenance organization contract, an employee welfare benefit plan, a hospital or medical service plan, or any other benefit program providing payment, reimbursement, or indemnification for health care costs for the individual and his eligible dependents, if applicable.

Commissioner—the Commissioner of the Department of Insurance.

Certificate—a Certificate of Authority to do business in this state granted by the Department of Health and Hospitals to a private review agent or other entity providing Utilization Review in this state.

Health Maintenance Organization—any corporation organized and domiciled in this state which undertakes to provide or arrange for the provision of basic health care services to enrollees in return for a prepaid charge, such a corporation being certified to conduct business in this state pursuant to R.S. 22:2001, et seq.

Hospital—any institution, place, building, or agency, public or private, whether for profit or not, devoted primarily to the maintenance and operation of facilities for 10 or more individuals for the diagnosis, treatment or care of persons admitted for overnight stay or longer who are suffering from illness, injury, infirmity, or deformity or other physical condition for which obstetrical, medical or surgical services would be available and appropriate, such an institution being licensed in this state pursuant to R.S. 40:2100, et seq.

Inpatient admissions to hospitals—admissions to all acute medical, surgical, obstetrical, psychiatric and chemical

dependency inpatient services at a licensed hospital facility, as well as other licensed inpatient facilities such as skilled nursing facilities, residential treatment centers and free standing rehabilitation facilities.

Payor—any insurer, as defined in Title 22 of the Louisiana Revised Statutes of 1950, or any preferred provider organization as defined in R.S. 40:2202, health maintenance organization, self-insurance plan, or other person or entity which provides, offers to provide, administers hospital, outpatient, medical, or other health care benefits to an individual treated by a health care provider in this state, pursuant to any policy, plan, or contract of health and accident insurance.

Private review agent—a nonhospital-affiliated person or entity performing utilization review, on a case by case basis, that is either affiliated with, under contract with, or acting on behalf of:

a. an employer of persons in this state including, but not limited to, the state;

b. a business entity in this state;

c. a third party that provides or administers hospital or outpatient benefits and medical benefits to citizens of this state including:

i. a health maintenance organization issued a Certificate of Authority under the laws of this state which acts as a private review agent for any patient or group of patients other than its own contracted enrollees, subscribers, or members.

ii. a health and accident insurer, nonprofit health service plan, health insurance service organization, preferred provider organization, or other entity offering health and accident insurance policies, contracts, or benefits in this state.

Provider of record—the physician licensed to practice medicine, or other licensed health care practitioner licensed in this state to practice without referral or prescription from another licensed health care practitioner, identified to the private review agent as having a primary responsibility for the care, treatment, and services rendered to an enrollee.

Secretary—the Secretary of the Department of Health and Hospitals.

Utilization Review—a system for prospective, concurrent, or retrospective review of the necessity and appropriateness in the allocation of health care resources and services or any nonmedical treatment recognized by the laws of this state as legal, proposed to be rendered, being rendered, or having been rendered to an individual in this state, and which includes, but is not limited to, a pre-hospital admission certification, a pre-inpatient service eligibility program, or any other similar screening procedure. Utilization review shall not include advisory requests for clarification of coverage.

Certificate Required for Utilization Review

A. On or after January 1, 1992, a private review agent shall not conduct Utilization Review of any health care services or treatment provided in this state, including, but not limited to, inpatient admissions to hospitals, unless the department has granted the private review agent a Certificate of Authority or the private review agent has obtained the one time temporary certification granted by the Department of Insurance as allowed in these rules. No certification is required for an individual conducting Utilization Review, provided such Utilization Review, is performed solely within the scope of such individual's employment with the private review agent already certified by the department.

B. The secretary shall issue a certificate to an applicant meeting all the requirements and all applicable adminis-

trative regulations promulgated.

C. A certificate issued shall not be transferable.

D. Any information required by the secretary with respect to customers, clients, patients, or Utilization Review procedures of a private review agent shall be held in confidence and shall not be subject to public disclosure.

Exceptions to Required Certification

A. No certificate shall be required for those private review agents, who through contract or employment conduct general in-house Utilization Review for hospitals, health maintenance organizations, home health agencies, preferred provider organizations, other managed care entities, clinics, private offices, or any other health facility or entity, provided the review does not result in the approval or denial of payment for hospital or medical services in a particular case. Such general in-house Utilization Review shall be exempt from the provisions of this Act.

B. No certificate is required for Utilization Review under Titles XVIII or XIX of the Social Security Act or by any licensed pharmacist, pharmacy, or organizations of pharmacists of pharmacies, while engaged in the practice of pharmacy including, but not limited to, dispensing of drugs, participation in Drug Utilization Reviews, and monitoring patient drug therapy.

C. A health maintenance organization which acts as a private review agent or which performs Utilization Reviews, exclusively for its own contracted enrollees, subscribers, or members is exempt from the provisions of this Act.

D. In the event of a conflict between the provisions of this Act and the Utilization Review provisions of R.S. 23:1291(B)(10) and the rules and regulations implementing that statute, the provisions of the workers' compensation law and rules of the Office of Worker's Compensation shall control.

E. The State Employees Group Benefits Program is exempt from the provisions of this Act and these rules and regulations.

Procedure for Certification

A. An applicant for a Certificate shall:

1) submit an application to the secretary;

2) pay the application fee of \$500;

3) submit the following additional information:

a) a general description of the review process;

b) the provisions by which enrollees, patients, provider of records or hospitals may seek reconsideration of or appeal adverse decisions by the private review agent;

c) the type and qualifications of the personnel employed or under contract to perform the Utilization Review, including but not limited to, the categories of health care personnel that perform any utilization review activities and their state or states of licensure and the qualifications and training received by personnel who are skilled lay persons performing utilization review activities;

d) policies and procedures to ensure that a representative of the private review agent is reasonably accessible to patients and health care providers five days a week during normal business hours in this state;

e) policies and procedures to ensure that all applicable state and federal laws to protect the confidentiality of individual medical records are followed;

f) a copy of the materials designed to inform patients and providers of the requirements of the Utilization Review process;

g) name, current street and mailing addresses, telephone number, and normal business hours of the private review agent;

h) name and telephone number of a person for the secretary or his designee to contact, along with a list of the principals of the private review agent responsible for the operation, management and control;

i) a sworn statement listing the names and addresses of the person or group of persons who are the sole owner or owners of the private review agent, the persons or business entities which own 10 percent or more of the corporate stock or partnership interest, or any person or business entity which has a direct business interest in the private review agent including, but not limited to, a wholly owned subsidiary, the details of any conversion rights which may exist for the benefit of any party and whether such stock, partnership interest, or ownership being held by the disclosed person or business entity listed is, in fact, owned by another person or business entity.

j) evidence of compliance with the minimum standards established in these rules and regulation;

k) a written description of an active, ongoing quality program, if any.

B. The application shall:

1) be on forms provided by the secretary;

2) be signed, dated, and verified by the applicant;

3) the application fee of \$500, (check or money order payable to the Department of Health and Hospitals), shall be submitted with application. The fee shall be used to pay for the administrative costs of the certification program and any other costs associated with implementing the provisions of this Act.

Denial or Revocation of Certification

A. A Registered Nurse employed by the department will review each application for:

1) completeness of the form;

2) payment of required fee;

3) content of material submitted to determine whether it meets Utilization Review regulations.

B. The secretary shall deny a certificate to an applicant if the applicant does not:

1) have available the services of a sufficient number of appropriately licensed health care professionals to carry out its Utilization Review activities;

2) meet any applicable provisions of these rules and regulations relating to the qualifications of private review agents or the performance of Utilization Review which the secretary adopts;

3) have policies and procedures which protect the confidentiality of medical records in accordance with applicable state and federal laws; or

4) make itself accessible to patients and providers five working days a week during normal business hours in this state.

C. The secretary may revoke the certificate of a private review agent if the agent:

1) does not comply with the minimum standards for private review agents as stated in R.S. 40:2727 or any other provision of the Act.

2) fraudulently or deceptively obtains, attempts to obtain, or uses a certificate;

3) fails to meet the standards and qualifications or to comply with the rules and regulations adopted by the secretary;

4) exhibits one or more instances involving failure to adhere to an appropriate standard for health services review to a degree that constitutes gross negligence, as determined by the secretary;

5) exhibits repeated instances involving failure to adhere to an appropriate standard for health services review to a degree that constitutes ordinary negligence, as determined by the secretary;

6) exhibits a pattern of practice or behavior that demonstrates a manifest incapacity or incompetence to perform Utilization Review in an adequate manner;

7) fails to promptly provide such information, documentation, records, and other data as may be requested by the secretary;

8) demonstrates conduct likely to deceive, defraud or harm the public, including any false or misleading statement as to the skill or efficiency of the private review agent;

9) directly or indirectly gives or receives any rebate, kickback or contingency fee.

Expiration and Renewal of Certificate

A. A certificate issued by the secretary shall expire on the second anniversary of its effective date unless the certificate is renewed for another two-year term.

B. Before the expiration date, a certificate may be renewed for an additional two years by submitting the following to the secretary:

1) a renewal fee of \$350 (check or money order payable to the Department of Health and Hospitals);

2) a renewal application on a form provided by the secretary and containing satisfactory evidence of continued compliance with all requirements and administrative regulations for certificate renewal.

Minimum Standards for Private Review Agents

A. Acknowledgment of receipt by the private review agent of a request for determination shall be mailed or otherwise communicated to the provider of record, the enrollee or other appropriate individual within two business days of such receipt. Upon approval or extension of an admission or other services, the private review agent shall issue a verbal authorization number or similar identifying information. Written documentation of the approval shall be provided to the provider of record upon request.

B. Any determination by a private review agent as to the necessity and appropriateness of an admission, service, treatment or procedure shall be reviewed by a health care provider of the same licensure class or determined in accordance with standards or guidelines approved by a health care provider of the same licensure class. (Example: Practitioners licensed to practice medicine, dentistry, chiropractic, podiatry).

C. Any notification of an adverse determination not to certify an admission or service or procedures shall include:

- 1) the principal reason for the adverse determination;
- 2) the procedures to initiate an appeal or a reconsideration of the adverse determination.

D. A private review agent shall maintain and make available a written description of the appeal procedure by which an enrollee or the provider of record may seek review of determinations by the private review agent. The appeal procedure shall provide the following:

1) on final appeal, the private review agent shall have reasonably available a health care provider in the same licensure class as the provider of record to review the case;

2) a private review agent shall complete the adjudication of an appeal of a determination not to certify an admission, service, or procedure no later than 30 days from the date the appeal is filed and all information necessary to complete the appeal is received; the provider of record or hospital is requested to file an appeal of an adverse determination by the private review agent within 30 days from receipt of the notice of the adverse determination;

3) a private review agent shall also provide for an expedited appeal process for emergency medical condition or life threatening situations; (*Emergency medical condition or life threatening situation*—a medical condition manifesting itself by acute symptoms of sufficient severity [including severe pain] such that the absence of immediate medical attention could reasonably be expected to result in: (A) placing the patient's health in serious jeopardy; (B) serious impairment to bodily functions; or (C) serious dysfunction of any bodily organ or part); a private review agent shall complete the adjudication of such an expedited appeal within 48 hours of the date the appeal is filed and all information necessary to complete the appeal is received;

4) upon appeal, a denial shall be approved if:

a) the provider of records shows written evidence of attempted compliance with the review agent's information request in a manner that would have met the private review agent's standard requirements;

b) the provider of record provides within a reasonable time the information required by the private review agent for a review; and

c) the request for determination, according to the private review agent's normal protocol, would have been approved had the information been received when initially requested.

5) on initial appeal of a denial of a mental health or substance abuse treatment inpatient stay, the guideline for the qualifications of the reviewer shall be as follows:

a) mental health stay - psychiatrist; clinical psychologist; registered nurse with psychiatric training or experience, or both; or board certified social worker;

b) substance abuse stay - psychiatrist; physician specializing in addictionology; clinical psychologist; registered nurse with psychiatric training or experience, or both; or certified substance counselor.

E. In cases in which an enrollee's or patient's medical condition renders him unable to comply and no authorized representative of the patient is available to comply with a payor's or private review agent's prospective, pre-admission, or concurrent review requirement, such a requirement is waived. Such a waiver does not preclude a private review agent from a retrospective review of the health care services or treatment rendered to the enrollee or patient.

F. A private review agent shall make staff available by toll-free telephone or telephone facsimile at least 40 hours per week during normal business hours in this state. A provider of record may submit information by telephone facsimile within two working days of such a request by the private review agent.

G. A private review agent shall have a phone system capable of accepting or recording, or both, incoming telephone calls during other than normal business hours and shall respond to these calls by the end of the next working day, if possible, or within two working days, at most.

H. A private review agent shall comply with all applica-

ble state and federal laws to protect the confidentiality of an individual's medical records.

I. Physicians and other health care providers making Utilization Review determinations shall have current unrestricted licenses from a state licensing agency in the United States.

J. Emergency Certification Procedures:

1) a private review agent shall provide that, in the case of an emergency admission, service, or procedure, notification, and request for determination by a provider of record to a private review agent shall be considered timely if made within 24 hours of initiation of treatment;

2) in the event of an emergency certificate issued by a parish coroner for inpatient admission to a mental health or substance abuse treatment facility, the private review agent shall review the admission within one business day of the request for determination.

K. The enrollee, patient, or provider of record may initiate the utilization review process by telephoning or otherwise communicating with the private review agent. The private review agent may request initial data to include the following information:

Patient Information

- Name
- Social Security or Patient Identification Number
- Address
- Date of Birth
- Sex

Enrollee Information

- Name, if different from the Patient
- Social Security or Identification Number
- Address, if different from the Patient
- Relation to the Patient
- Employer
- Health Benefit Plan
- Group Number of Plan Identification Number
- Other Coverages Available (Worker's Compensation, Automobile, CHAMPUS, Medicare or other)

Facility/Diagnosis and Treatment Information

- Name of Facility
- Address of Facility
- Facility's telephone number
- Anticipated admission date
- Admitting or Primary Diagnosis (with associated ICD or DSM Coding, if available)
- Expected length of stay
- Major procedures and related CPT Codes
- Plan of Treatment
- Complication or other factors requiring the inpatient setting

- Medical justification for the inpatient admission
- Is surgery anticipated? If yes, procedure
- Is general anesthesia required?

Provider of Record Information

- Name
- Address
- Telephone Number
- Tax Identification or other Identification Number
- Caller's Name and Telephone Number

The enrollee, patient, or provider of record will provide the descriptive or narrative information and the private review agent will verify or furnish the ICD-9-CM or CPT-4 Codes, or both.

L. Private review agents may perform concurrent review of inpatient stays but, in the case of mental health or substance abuse treatment stays, shall not routinely conduct daily reviews. The guidelines for the frequency of concurrent review of such stays is every 72 hours.

M. For the purpose of discharge planning, as a part of concurrent review of a mental health treatment or substance abuse treatment inpatient stay, the private review agent shall contact the provider of record, the provider's representative, or staff at the treatment facility prior to the final day approved by the private review agent at the time of the initial request or any subsequent requests for determination.

N. Retroactive denial by a private review agent shall be permitted after initial approval for reasons of fraudulent information provided to the private review agent, exhausted benefits, ineligibility of the patient at the time of the initial approval but unknown to the private review agent, or change in the clinical information from that initially reported. Retroactive denial shall not be permitted due to a change in a private review agent's staff or protocol.

O. Except in the case of retrospective review, a private agent shall not issue a denial for lack of medical necessity or appropriateness without a reasonable attempt to communicate with the provider of record, the provider's representative, or staff at the treatment facility.

Enforcement

A. Whenever the secretary has reason to believe that a private review agent, subject to these rules and regulations, has been, or is engaged in conduct which violates any provision of this act or rule promulgated, the secretary shall notify, in writing, the private review agent of the alleged violation. The secretary may verify information on site.

B. The private review agent shall have 30 days from the date the notice is received to respond to the alleged violation in writing. If the secretary determines that the private review agent has engaged in violations of these rules and regulations, he shall reduce his findings to writing and shall issue and cause, to be served upon the private review agent, a copy of such finding and an order requiring the private review agent to cease and desist from engaging in such violations. If the private review agent does not agree to the findings it has a right of informal hearing or administrative hearing. Such informal hearing will be scheduled within 20 days of such request. Department of Health and Hospitals personnel not involved in the initial review of the alleged violation, appointed by the secretary, shall be assigned to conduct this hearing process. The informal hearing is designed to provide an opportunity for the private review agent to informally review the situation; for the department to offer alternatives based on corrections or clarifications, if any; and for the private review agents to evaluate the necessity for seeking an administrative hearing. During this informal discussion, the private review agent will be afforded the opportunity to talk with department personnel involved, to review pertinent documents on which the violation is based, to ask questions, to seek clarifications, and to provide additional information.

Hearing and Appeal Procedures

A. Right to Request Administrative Hearing. Within 30 calendar days after the receipt of notice of the secretary's notice of violation or the notice of results of informal discussion, the private review agent may request an administrative hearing. Such request must be in writing to the appeals section. The request must contain a statement setting forth the

specific charges with which the private review agent disagrees, and the reasons for this disagreement.

Unless a timely and proper request is received by the appeals section, the findings of the secretary shall be considered a final and binding administrative determination.

B. Basic Provisions. The administrative hearing shall be conducted in accordance with the Louisiana Administrative Procedure Act, R.S. 49:965 et seq., and the provisions set forth in the procedures described therein.

Any party may appear and be heard at any appeals proceeding through an attorney at law or through a designated representative.

C. Appearance in Representative Capacity. A person appearing in a representative capacity shall file a written notice of appearance on behalf of a review agent identifying himself by name, address and telephone number, and identifying the party represented, and shall have a written authorization to appear on behalf of the private review agent.

D. Preliminary Conference. Although not specifically required, the Appeals Bureau may schedule a preliminary conference. The purposes of the preliminary conference include but are not limited to the following:

1. clarification, formulations and simplification of issues;
2. resolution of matters in controversy;
3. exchange of documents and information;
4. stipulations of fact so as to avoid unnecessary introduction of evidence at the formal review;
5. the identification of witnesses; and
6. such other matters as may aid disposition of the issues.

When the appeals bureau schedules a preliminary conference, it shall notify all parties in writing. The notice shall direct any parties and their attorneys to appear at a specified date.

E. Results of Preliminary Conference. Where the preliminary conference resolves all or some matters in controversy, a summary of the findings agreed to at the conference shall be provided by the administrative law judge.

Where the preliminary conference does not resolve all matters in controversy, an administrative hearing shall be scheduled on those matters still in controversy. The hearing shall be scheduled within 30 calendar days following the completion of the preliminary conference, or at a time mutually convenient to all parties.

F. Notice of Administrative Hearing. When an administrative hearing is scheduled, the Appeals Bureau shall notify the review agent and/or his representative and the secretary's representative, in writing of the date, time, and place of the hearing. Notice shall be mailed not less than 10 calendar days before the scheduled date of the hearing.

G. Conduct of Hearing. The hearing shall be conducted by the administrative law judge from the Appeals Bureau.

Testimony shall be taken only on oath, affirmation, or penalty of perjury.

Each party shall have the right to call and examine parties and witnesses; to introduce exhibits; to question opposing witnesses and parties on any matters relevant to the issue even though the matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.

Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil or criminal actions. Documentary evidence may be received in the form of copies or excerpts.

The administrative law judge may question any party or witness and may admit any relevant and material evidence.

The administrative law judge shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. Prior to taking evidence, the administrative law judge shall explain the issues and the order in which evidence will be received.

The complaining party has the burden of proving whatever facts it must establish to sustain its position.

The burden of producing evidence to substantiate the written charge(s) will be on the complaining party. Once the burden of producing evidence to substantiate the charges has been met the private review agent has the burden of producing evidence answering the charges.

H. Witnesses and Subpoena. Each party shall arrange for the presence of their witnesses at the hearing. A subpoena to compel the attendance of a witness may be issued by the administrative law judge upon written request by a party and a showing of the need thereof.

A subpoena may be issued by the administrative law judge on his own motion. An application for subpoena duces tecum for the production of a witness of books, papers, correspondence, memoranda, or other records shall be made in writing to the administrative law judge, giving the name and address of the person or entity upon whom the subpoena is to be served. The application shall precisely describe the material that is desired to be produced and shall state the materiality thereof to the issue involved in the proceeding. It shall also include a statement that, to the best of the applicant's knowledge, the witnesses has such items in his possession or under this control.

I. Continuances or Further Hearings. The administrative law judge may continue a hearing to another time or place, or order a further hearing on his own motion or upon showing good cause, at the request of any party.

Where the administrative law judge determines that additional evidence is necessary for the proper determination of the case, he may at his discretion:

- 1) continue the hearing to a later date and order the party to produce additional evidence; or
- 2) close the hearing and hold the record open in order to permit the introduction of additional documentary evidence. Any evidence so submitted shall be made available to both parties and each party shall have the opportunity for rebuttal.

Written notice of the time and place of a continued or further hearing shall be given except that when a continuance of further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.

J. Record of Hearing. A sound recording of the hearing shall be made. A transcript will be prepared and reproduced at the request of a party to the hearing provided he bears the cost of the copy of the transcript.

K. Decision. At the conclusion of the hearing, the ad-

ministrative law judge shall take the matter under submission. The administrative law judge shall prepare a written proposed decision which will contain findings of fact, a determination of the issues presented, a citation of applicable policy and regulations, and an order.

The Appeals Bureau, on behalf of the secretary of the Department of Health and Hospitals, may adopt the proposed decision or may reject it based upon the record, or it may be remanded to the administrative law judge to take additional evidence. In the latter case, the administrative law judge thereafter shall submit a new proposed decision.

The decision shall be final and binding upon adoption on behalf of the secretary, subject only to judicial review by the courts. Copies of the decision shall be mailed to the review agent at his last known address and to any representative thereof.

L. Failure to Appear. If a review agent fails to appear at a hearing, a decision may be issued by the Appeals Bureau dismissing the hearing. A copy of the decision shall be mailed to each party.

Any dismissal may be rescinded upon order of the Appeals Bureau if the review agent makes written application within 10 calendar days after the mailing of the dismissal, and provides evidence of good cause for his failure to appear at the hearing.

Waiver of Certification

The secretary may waive the requirements of these rules and regulations for the activities of a private review agent who has contracted with the federal government for Utilization Review of patients eligible for hospital services under Title XVIII or XIX of the Social Security Act or the Civilian Health and Medical Programs of the Uniformed Services (CHAMPUS).

Annual Report

The secretary will publish annually the results of the review and the certification of private review agents. To include:

- A. number of private review agents certified;
- B. number of private review agents not certified and reasons for such denial;
- C. number of private review agents certificates renewed;
- D. number private review agents certificates revoked and reason for such revocation;
- E. utilization review statistics (received from applications, etc.)

Confidentiality and Discovery

A private review agent may not publish or disclose individual medical records or other confidential information obtained while performing Utilization Review without the appropriate procedure for protecting the patient's confidentiality and right of privacy. A private review agent shall not be prohibited from providing patient information to a third party with whom the agent is affiliated, under contract, or for whom it is acting as an agent. Summary data shall not be considered confidential if it does not provide sufficient information to allow identification of individual patients.

Penalties, Violations, Judicial Appeals

A. No person shall act as a private review agent unless he holds a valid certificate issued by the secretary. Anyone who violates provisions of the rules and regulations shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than \$500 and not more than \$1,000.

B. Any person not agreeing with the final decision of the secretary may make a direct judicial appeal.

Liability

Nothing in these rules and regulations shall be construed to reduce or expand the liability of any private review agent or entity for any action or activities with respect to Utilization Review.

Cooperation by Health Care Providers and Private Review Agents

A. Each health care provider shall cooperate with and provide appropriate responses for patient information to a private review agent. A private review agent shall report to the secretary, for investigation and/or consideration of sanctions against any licensed health care provider, who demonstrates a pattern of noncooperation and/or unresponsiveness to legitimate patient inquiries.

B. The secretary shall investigate and determine the validity of such a private review agent's complaint against a health care provider. The secretary shall undertake the following actions in the following sequence:

- 1) resolve the complaint interdepartmentally between the private review agent and the health care provider. If either or both parties are not satisfied by this disposition, then;
- 2) refer the complaint for action pursuant to Section X of these emergency rules. If either or both parties are not satisfied by this disposition, then;
- 3) forward the complaint to the appropriate professional licensing board of the health care provider for its own investigation and disposition.

The secretary shall provide a written notice to both parties involved in the complaint detailing the investigation, ultimate disposition and sanction imposed against the health care provider, if any.

C. Providers of record of their staff and private review agents shall have sufficient staff to facilitate utilization review and may designate one or more individuals able to effectively communicate medical and clinical information. Private review agents must either:

- 1) accept and receive a call back from the provider of record or staff on the same business day for the requested patient information; or
- 2) have as part of its procedure the documentation in their records that the provider of record timely responded to their request for patient information even though the private review agent was unable to receive the patient information at the time. In this instance, a provider of record shall leave his name, telephone number, and his patient's name with the private review agent to document his communication and availability to provide the requested patient information.

D. A private review agent shall provide proper identification to health care providers, providers of record or hospitals when seeking patient information. Such proper identification shall include, but not be limited to, the name of the private review agent, the caller's full name, title, telephone number and certificate number of the private review agent. Private review agents shall collect only necessary patient and treatment information during normal business hours in this state.

Health Insurance Plans

Each nonprofit health insurance plan, insurer, or self insurer proposing to issue or deliver a health and accident, insurance policy or contract, or to administer a health benefit program which provides for the coverage of hospital and medical benefits and the Utilization Review of those benefits

shall either:

A. have a certificate in accordance with these emergency rules and regulations; or

B. contract with a private review agent who has a certificate in accordance with these rules and regulations.

Temporary Certification

A. A private review agent or Utilization Review Agent who is conducting Utilization Review for patient health care and treatment in this state under contract for, or on behalf of, a documented principle as of April 1, 1991, may apply to the Department of Insurance for temporary certification. The Department of Insurance shall issue a temporary certificate to a private review applicant who ostensibly complies with the provision of these rules and regulations. Only one temporary certification shall be issued to a qualified applicant who is actually conducting Utilization Review and shall legally entitle a private review agent to continue to conduct Utilization Review in this state. Temporary certification shall expire on June 30, 1992.

B. A private review agent or Utilization Review agent who has received temporary certification shall apply to the secretary for certification and comply with all the provisions of these rules and regulations in order to conduct Utilization Review in this state on or after July 1, 1992.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Insurance Commissioner of Insurance

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Insurance has by emergency procedures repealed in its entirety current Regulation 33B and had adopted in its place revised Regulation 33B. This action has been taken in order to implement without delay Act 428 of the 1992 regular legislative session.

Emergency rulemaking is necessary to meet federally mandated guidelines for the marketing of medicare supplement policies within the state. These guidelines must be in place no later than July 30, 1992 under the timetable established in OBRA '90. Failure to comply with this deadline would result in the inability of companies to market such policies in Louisiana. This emergency regulation is effective July 20, 1992 and will remain in effect for 120 days.

PROPOSED REGULATION 33B (REVISED)

MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

Proposed Regulation 33B establishes the minimum standards which must be complied with by all insurers marketing medicare supplement policies in Louisiana. The authority for this regulation is found in R.S. 22:224 and in 42 U.S.C. 1395 et seq. (OBRA '90).

The regulation begins with a statement of its purpose and the authority for its adoption. It then defines key terms used in the regulation and those that must be used in medicare supplement policies. The regulation then goes up to set forth the minimum standards that must be offered in various approved medicare supplement insurance plans as well as

the requirements for coverage and standards for payment for services and fees. The regulation includes charts which detail the types of coverage and costs covered under the various plans. It also sets standards for the payment of claims, the payment of premiums, the filing and approval of policies including mandatory policy provisions and the approval of premium rates.

Copies of this emergency rule may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804, 504-342-5015 or the Office of the Commissioner of Insurance, Box 94214, Baton Rouge, LA 70804, 504-342-5900.

James H. "Jim" Brown
Commissioner

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Office of the State Police

Breath and Blood Alcohol Analysis Methods (LAC 55:1.501)

The Department of Public Safety and Corrections, Office of State Police, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to adopt the following emergency rule effective July 1, 1992.

The repromulgation of the regulation regarding breath and blood alcohol analysis methods and techniques of July 20, 1991 referred to the manufacturer of the Intoxilyzer 5000, in §501.B, as MPD, Inc., Owensboro, Kentucky, whereas it more precisely should have referred to the manufacturer as CMI, Inc., a subsidiary of MPD, Inc., Owensboro, Kentucky, MPD, Inc. having acquired the stock of CMI, Inc. from Federal Signal Corporation on October 9, 1988. The emergency regulation is needed to avoid any interruption in the use of the Intoxilyzers 5000, which are a vital part of Louisiana's highway safety efforts.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 5. Breath and Blood Alcohol Analysis Methods and Techniques

Subchapter A. Analysis of Breath

§501. Approval of Instruments to Conduct Blood Alcohol Analysis by Breath Sampling

* * *

B. Approval of Instrumentation. The following is the instrument approved by the Louisiana Department of Public Safety and Corrections, the Office of State Police, Applied Technology Unit for analysis of breath specimens for the determination of the blood alcoholic content therein:

1. Intoxilyzer 5000, which was formerly manufactured by CMI, Inc. and distributed by Federal Signal Corporation, and since October 9, 1988 manufactured by CMI, Inc., a subsidiary of MPD, Inc. Every Intoxilyzer 5000 which has been certified and placed in operation in Louisiana is now and has been continuously, since the date of its original certification, an approved instrument for the analysis of breath specimens for the determination of blood alcoholic content regardless of any incorrect reference to its

manufacture or distribution in the amendment of July 20, 1991.

Col. Paul W. Fontenot
Deputy Secretary

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Community Services**

Child Protection Investigation Program

The Department of Social Services, Office of Community Services, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Child Protection Investigation Program, effective August 1, 1992 in order to comply with R.S. 14:403(J).

The Department of Social Services, Office of Community Services (OCS), hereby repeals the rule entitled "Child Protective Services Prioritization", published in the

Louisiana Register, Volume 17, April 20, 1991, pages 387-388.

The Department of Social Services, Office of Community Services (OCS), withdraws the notice of intent entitled "Child Protective Services Prioritization", published in the *Louisiana Register*, Volume 18, March 20, 1992, pages 316-319.

EMERGENCY RULE

Effective August 1, 1992, the Office of Community Services shall implement statewide the prioritization of reports of abuse and/or neglect. Intake staff, with supervisory concurrence, shall determine for each report of child abuse and/or neglect whether or not the information constitutes a reason to believe the alleged child victim is at risk of immediate and substantial harm. This determination shall be based on the information obtained from the reporter, the local office clearance, the agency data checks, the report categorization guidelines shown below. Those reports which are judged at intake to involve a low risk of immediate and substantial risk of harm will not be investigated.

REPORT CATEGORIZATION - NEGLECT

PRIORITIES: HIGH	MEDIUM	LOW	NON-REPORT
Abandonment Infant to Preteen		Abandonment - teenager temporarily w/other who will allow him to stay; preteen whose parents want us to take custody due to conflict/behavior	Teenager whose parents want us to take custody due to conflict/behavior
Dependency - incarceration/incapacitation of a parent of infant to preteen w/no other available caretaker (includes chronic addiction of parents which result in inability to care for child)		Dependency - teenager with relative/nonrelative who can no longer provide for the child	
Drug/alcohol abuse by infant or preschool child	Drug/alcohol abuse by preteen		Drug/alcohol abuse by teenager (w/or w/out parental permission)
Failure to Thrive		Clothing Inadequate	
Fetal Alcohol Syndrome/ Chemically Exposed Infant			
Malnutrition/Starvation			
Food Inadequate - Infant or toddler	Food Inadequate- School Age		
Lack of supervision - Infant to preteen, with inadequate or incapacitated caretaker; parent hasn't returned for child as agreed and caretaker will not continue to provide care.	Lack of supervision - Infant to preteen, Parent has not returned as agreed, but caretaker will continue to provide care		Lack of supervision Teenagers (Unless MR or Physically handicapped)
	Lack of supervision - Out of Home Care		
		Shelter Inadequate	Shelter Inadequate - about to be evicted
		Emotional Maltreatment	
Medical Neglect - strong likelihood of serious immediate consequences	Medical Neglect - strong likelihood of serious but less immediate consequences	Medical Neglect - No likelihood of serious or immediate consequences	Immunizations, corrective shoes, glasses, orthodontia
		Educational Neglect	

Issued: August, 1992

REPORT CATEGORIZATION - PHYSICAL ABUSE

PRIORITIES: HIGH	MEDIUM	LOW	NON-REPORT
Brain or Central Nervous System Damage/Skull Fracture	Dislocation/Sprains	Emotional Maltreatment	
Internal Injuries	Human Bites	Unspecified Physical Abuse	
Poisoning	Minor head/facial injuries _____*		
Subdural Hematoma	Mouth/dental trauma _____*		
Suffocation			
Torture			
Whiplash - Shaken Infant Syndrome			
Wounds			
Bone Fracture			
* _____	Burns		
* _____	Bruises, Cuts, Welts _____*		
Death (w/surviving children in home)		Death (w/out surviving children in home)	
* _____	Eye Injury		
* _____	Tying/Confinement		

*Indicates allegation may be up/down graded to that priority

The priority assignment for allegations which may be upgraded to a higher or down graded to a lower priority shall be based on an initial assessment of risk of harm to an alleged child victim. Factors which should be considered in the decision are the extent of the injury, the reported circumstances of the child such as age, health, current condition, vulnerability, and past history of abuse or neglect; and the circumstances of the family and the perpetrator.

Issued: August, 1992

REPORT CATEGORIZATION - SEXUAL ABUSE

PRIORITIES: HIGH	MEDIUM	LOW	NON-REPORT
Sexual Intercourse	Sexual Intercourse (occurred 3-12 mos. ago or perpetrator no longer has access)	Consensual Sexual Activity - Sibling or minor perp. of same age w/alleged parent knowledge or culpability unknown (Passive Abuse)	Sibling/minor perpetrator w/no alleged parental culpability
Oral Sex	Oral Sex (occurred over 3-12 mos. ago or perpetrator no longer has access)		
	Simulated Intercourse		
Digital/object penetration	Manipulation/fondling		
	Genital exposure of perpetrator or Masturbating in front of child	Other Enticement/ Harassment	
Venereal Disease			Venereal Disease (child over 12)
	Sexual Exploitation/ Pornography	Unspecified Sexual Abuse	

Issued: August, 1992

Additionally, the Office of Community Services will no longer accept referrals of child abuse and/or neglect from anonymous reporters in accordance with prioritization and the Louisiana Children's Code, Article 610 B. which states that a report of abuse or neglect shall contain the name and address of the reporter.

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

**Department of Social Services
Office of Community Services**

The Department of Social Services, Office of Community Services has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule in the Vendor Day Care Program. Emergency rulemaking is necessary to ensure continued day care services to children who are at risk of abuse and/or

neglect thus avoiding imminent peril to these children. The rule published in the *Louisiana Register*, Vol. 11, No. 7, July 20, 1985, page 689 is hereby amended through emergency rulemaking procedures.

EMERGENCY RULE

Effective June 20, 1992, the Department of Social Services, Office of Community Services will primarily provide day care services only to children who are at risk of abuse and/or neglect. Children currently receiving services due to employment and training will be transitioned to the Child Care Assistance Program, provided eligibility for that program is established.

Any children currently receiving day care services due to employment and training who are ineligible for the Child Care Assistance Program but who continue to be eligible for the OCS day care program will continue to receive services as long as eligibility is maintained. A co-payment for services will be charged based on the family income shown on the following sliding fee scale.

NUMBER IN HOUSEHOLD	2	3	4	5	6	RECIPIENT'S SHARE OF CHILD CARE FEE
ANNUAL FAMILY INCOME	0 - 8,879	0 - 11,139	0 - 13,399	0 - 15,659	0 - 17,919	5%
	8,880 - 10,795	11,140 - 13,055	13,400 - 15,705	15,660 - 18,355	17,920 - 21,003	10%
	10,796 - 12,380	13,056 - 14,972	15,706 - 18,011	18,356 - 21,050	21,004 - 24,087	30%
	12,381 - 13,966	14,973 - 16,889	18,012 - 20,317	21,051 - 23,745	24,088 - 27,171	50%
	13,967 - 15,551	16,890 - 18,806	20,318 - 22,623	23,746 - 26,440	27,172 - 30,255	70%
	15,552 - 16,341	18,807 - 19,762	22,624 - 23,773	26,441 - 27,784	30,256 - 31,793	90%
	16,342 & ABOVE	19,763 & ABOVE	23,774 & ABOVE	27,785 & ABOVE	31,794 & ABOVE	100%

NUMBER IN HOUSEHOLD	7	8	9	10	11	RECIPIENT'S SHARE OF CHILD CARE FEE
ANNUAL FAMILY INCOME	0 - 20,179	0 - 22,439	0 - 24,699	0 - 26,959	0 - 29,219	5%
	20,180 - 23,652	22,440 - 26,301	24,700 - 28,950	26,960 - 31,599	29,220 - 34,247	10%
	23,653 - 27,125	26,302 - 30,163	28,951 - 33,200	31,600 - 36,238	34,248 - 39,275	30%
	27,126 - 30,598	30,164 - 34,025	33,201 - 37,451	36,239 - 40,878	39,276 - 44,303	50%
	30,599 - 34,070	34,026 - 37,886	37,452 - 41,702	40,879 - 45,517	44,304 - 49,332	70%
	34,071 - 35,802	37,887 - 39,812	41,703 - 43,821	45,518 - 47,831	49,333 - 51,839	90%
	35,803 & ABOVE	39,813 & ABOVE	43,822 & ABOVE	47,832 & ABOVE	51,840 & ABOVE	100%

Day care centers will be reimbursed for services based on the standard rate schedule shown on the following chart:

	Child Under Age 2			Age 2 and Older		
		full-time	part-time		full-time	part-time
Class A Centers	monthly	\$238.30	\$119.15	monthly	\$216.50	\$108.25
	weekly	\$ 55.00	\$ 27.50	weekly	\$ 50.00	\$ 25.00
	daily	\$ 11.00	\$ 5.50	daily	\$ 10.00	\$ 5.00
	hourly	\$ 1.38	\$ 1.38	hourly	\$ 1.25	\$ 1.25
All other providers	monthly	\$216.50	\$108.25	monthly	\$216.50	\$108.25
	weekly	\$ 50.00	\$ 25.00	weekly	\$ 50.00	\$ 25.00
	daily	\$ 10.00	\$ 5.00	daily	\$ 10.00	\$ 5.00
	hourly	\$ 1.25	\$ 1.25	hourly	\$ 1.25	\$ 1.25

Any newly authorized day care placement by the Office of Community Services shall be for the protection of children at risk of abuse and/or neglect, the condition of the parent, the condition of the child and foster care reasons only. There is no co-payment for these services.

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Amendments to 1990 Farm Bill, Mickey Leland Memorial Domestic Hunger Relief Act and Food Stamp Certification Policy

The Department of Social Services, Office of Family Support has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective June 16, 1992 in the Food Stamp Program.

Emergency rulemaking was necessary to comply with USDA Food and Nutrition Service directives to implement federal regulations at 7 CFR 271.2, 273.1, 278.1, 273.5, 273.8, 273.9 and pages 63592 - 63617 of FR 56, No. 233. It is necessary to extend the emergency rule for 120 days in order to comply with federal regulations until the final rule becomes effective.

The Department of Social Services, Office of Family Support, proposes to amend LAC 76:III.1711, 1937 and 1964.

Title 67 SOCIAL SERVICES - GENERAL Part III. Office of Family Support Subpart 3. Food Stamps

Chapter 17. Administration

Subchapter B. General Administrative Requirements

§1711. Disabled People in Group Living Arrangements

- A. All individuals residing in group living arrangements

meet the Food Stamp Act's definition of "disabled" (as defined in Section 3(r) of the Food Stamp Act) are eligible to receive food stamps to purchase their prepared meals.

Chapter 19. Certification of Eligible Households Subchapter E. Students

§1937. Student Related Provisions

4. Exclusions from Educational Assistance

c. All educational assistance will be excluded in the same manner regardless of the source of the assistance, i.e., an exclusion from educational income shall be granted based on amounts earmarked by the institution, school program, or other grantor as made available for the specific costs of tuition, mandatory fees, books, supplies, transportation, and miscellaneous personal expenses (other than living expenses).

d. The definition of mandatory fees includes the rental or purchase of any equipment, materials, and supplies related to the pursuit of the course of study involved.

e. The maximum age level of students attending institutions of higher education who are prohibited from receiving food stamp assistance shall be lowered from 60 years to 50 years of age.

f. Eligible student status shall be granted to students participating in a state or federally-financed work study program during the regular school year and the work incentive program under Title IV of the Social Security Act or its successor programs.

g. The funds from PASS (Plan for Achieving Self-Support) accounts will be excluded as income for the food stamp program.

§1949 Exclusions from Resources

3. *Inaccessible resource* — one whose sale or other disposition is unlikely to produce any significant amount of funds for the support of the household.

4. State agencies shall not be required to require verification that a resource is inaccessible unless the information provided by the household is questionable.

B. All of the resources of recipients of AFDC; SSI; and aid to the aged, blind or disabled under titles I, II, X, XIV or XVI of the Social Security Act are excluded.

§1964. Standard Shelter Estimate

Effective June 16, 1992, homeless households which do not receive free shelter throughout the calendar month shall be entitled to a Standard Shelter Estimate (SSE) of \$128. The \$128 SSE is a USDA-FNS determined estimate of reasonable expenses related to shelter costs which a homeless household may be expected to incur. All homeless households which incur or reasonably expect to incur shelter costs during a month shall be eligible for the SSE unless higher shelter costs are verified. If shelter costs in excess of \$128 are verified, the household may use actual costs rather than the SSE.

§1987. Categorical Eligibility for Certain Recipients

5. Households in which all members receive assistance from a Local General Assistance Program shall be considered categorically eligible for food stamps provided the LGA program has income and resource standards which do not exceed the food stamp limits; the LGA benefits are provided to assist in meeting living expenses; and the LGA benefits are on-going (not limited to emergency assistance).

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

Food Stamps: Work Requirements; Conciliation Process

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 1, 1992.

Emergency rulemaking was necessary to comply with federal regulations, 7CFR 273.7. It is necessary to extend this emergency rule for 120 days in order to comply with federal regulations until the final rule becomes effective.

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:1941.

Title 67
SOCIAL SERVICES - GENERAL
Part III. Office of Family Support
Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households
Subchapter G. Work Requirements

§1941. Household Concept

3. Ending or Avoiding Employment and Training (E&T) or Voluntary Quit Sanctions.

iii. Conciliation is an attempt to reach a resolution of the participant's failure to comply with the employment and training requirement prior to initiation of a sanction (sending advance notice of adverse action). The purpose of conciliation is to determine the reason the work registrant did not comply with the employment and training requirement and to provide the noncomplying individual with an opportunity to comply prior to the issuance of an NOAA. The conciliation period shall begin the day following the date an individual fails to comply and shall continue for a period not to exceed 30 calendar days. A conciliation letter will be sent to the participant by the contractor/provider when conciliation begins.

iv. Conciliation must be initiated by the contractor/provider when there is knowledge of the participant's failure to comply; cannot exceed 30 days, and may end sooner if the participant refuses to cooperate in the process; and is considered successful when a verifiable act of compliance is performed by the participant or good cause is established. If the conciliation process is not successful, the process of sanctioning shall be initiated.

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Social Services
Office of Family Support

JOBS-Project Independence/Aid to Families
with Dependent Children

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following rule effective July 1, 1992 in the Job Opportunities and Basic Skills (JOBS) Training Program, also referred to as Project Independence, the name of Louisiana's Program, and the Aid to Families with Dependent Children (AFDC) Program.

Emergency rulemaking was necessary to comply with the new payment schedule approved for all child care programs in the Department of Social Services. It is necessary to extend the emergency rule for 120 days in order to comply with federal regulations until the final rule becomes effective.

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.1181 and 2903, Subpart 2 Aid to Families with Dependent Children (AFDC) program and Subpart 5, Job Opportunities and Basic Skills Training Program.

Title 67
DEPARTMENT OF SOCIAL SERVICES
Part III. Office of Family Support
Subpart 2. Aid to Families with Dependent Children
(AFDC)

Chapter 11. Application, Eligibility, and Furnishing Assistance

* * *

Subchapter E. Transitional Child Care Assistance §1181. Eligibility Fees and Payments

* * *

G. Child Care Payments

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3. The Office of Family Support will implement the following Standard Rate Schedule for payment for child care services provided to the children of Transitional Child Care Assistance participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age, and the type of care provided.

STANDARD RATE SCHEDULE
Regular Care

CHILD UNDER AGE 2		CHILD AGE 2 AND OLDER						
CLASS A CENTERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$238.30	Monthly	\$119.15	Monthly	\$216.50	Monthly	\$108.25
Weekly	55.00	Weekly	27.50	Weekly	50.00	Weekly	25.00	
Daily	11.00	Daily	5.50	Daily	10.00	Daily	5.00	
Hourly	1.38	Hourly	1.38	Hourly	1.25	Hourly	1.25	
ALL OTHER PROVIDERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$216.50	Monthly	\$108.25	Monthly	\$216.50	Monthly	\$108.25
Weekly	50.00	Weekly	25.00	Weekly	50.00	Weekly	25.00	
Daily	10.00	Daily	5.00	Daily	10.00	Daily	5.00	
Hourly	1.25	Hourly	1.25	Hourly	1.25	Hourly	1.25	

All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations LR 16:238 (March 1990), amended by the Department of Social Services, Office of Family Support LR 18:

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Subpart 5. Job Opportunities and Basic Skills Training Program

Chapter 29. Organization

* * *

§2903. Child Care Payment Rates for Project Independence

The Office of Family Support will implement the following Standard Rate Schedule for payment for child care services provided to the children of Project Independence participants. The statewide limit is established as the maximum amount allowable based upon the provider type, age of child, and the type of care provided.

STANDARD RATE SCHEDULE
Regular Care

CHILD UNDER AGE 2		CHILD AGE 2 AND OLDER						
CLASS A CENTERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$238.30	Monthly	\$119.15	Monthly	\$216.50	Monthly	\$108.25
Weekly	55.00	Weekly	27.50	Weekly	50.00	Weekly	25.00	
Daily	11.00	Daily	5.50	Daily	10.00	Daily	5.00	
Hourly	1.38	Hourly	1.38	Hourly	1.25	Hourly	1.25	
ALL OTHER PROVIDERS	Full Time		Part Time		Full Time		Part Time	
	Monthly	\$216.50	Monthly	\$108.25	Monthly	\$216.50	Monthly	\$108.25
Weekly	50.00	Weekly	25.00	Weekly	50.00	Weekly	25.00	
Daily	10.00	Daily	5.00	Daily	10.00	Daily	5.00	
Hourly	1.25	Hourly	1.25	Hourly	1.25	Hourly	1.25	

All rates herein are established as maximum allowable amounts; payments will be the provider's actual charges or the maximum rate, whichever is less. Daily rates are based on eight hours per day; weekly rates are based on five days per week; monthly rates are based on 4.333 weeks per month. Part-time care is considered to be 20 hours per week or less. Part-week care is considered to be fewer than five days per week, paid at the daily rate. (Example: A Project Independence participant in a component that is scheduled for three days per week would be eligible for the days of participation only.)

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support LR 18:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

1992 Wild Alligator Season

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, and R.S. 49:967(D) which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Louisiana Wildlife and Fisheries Commission at its regular monthly meeting held July 7, 1992 in Baton Rouge, Louisiana, does hereby set the 1992 wild alligator season dates as follows.

The annual wild alligator season dates shall be September 5 through October 4, 1992.

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.

James H. Jenkins, Jr.
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Alligator Regulations

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, 259, 261, 262, 263 and 280, the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule as of July 20, 1992, amending and reenacting Title 76, Chapter 7, Section 701.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 7. Alligators

§701. Alligator Regulations

The Department of Wildlife and Fisheries does hereby establish regulations governing the harvest of wild populations of alligators and alligator eggs, raising and propagation of farmed alligators tanning of skins and regulations governing the selling of hides, alligator parts and farm raised alligators. The administrative responsibility for these alligator programs shall rest with the department secretary; the assistant secretary, Office of Wildlife; and the Fur and Refuge Division.

A. Purpose. These regulations are to govern the taking, possession, selling, raising and propagation of alligators statewide, both in the wild and in captivity. They are enacted to prevent depletion or waste, while enhancing utilization of this renewable resource. These regulations are based upon scientific study and population monitoring and are consistent with federal requirements to qualify alligators and alligator parts from Louisiana for international export under the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Alligators in Louisiana are not endangered but their similarity of appearance to endangered crocodilian species requires controls on commerce to minimize illegal trafficking of these species and to regulate and maintain the wild population of alligators. These regulations provide rules to enhance alligator farming operations; establish the methods of alligator harvest; establish minimum facility requirements for alligator farming; regulate commerce in alligators, eggs and parts; streamline necessary reporting requirements; and, establish a regulated nuisance alligator control program.

B. Definitions. The following words and phrases for purposes of these regulations shall have the meaning ascribed to them in this Section, unless the context wherein the particular word or phrase is used clearly indicates a different meaning:

Alligator — American alligator (*Alligator mississippiensis*).

Alligator Egg Collection Permit — A permit issued by the department allowing for the collection of alligator eggs on designated properties described as part of the permit. The permit will be signed by the secretary or his designee, the permittee and the landowner/land manager.

Alligator Farm (nongame quadruped) — An enclosed area, constructed so as to prevent the ingress and egress of alligators from surrounding public or private lands or waters and meeting other specifications and requirements set by the department, where alligators are bred, propagated, or raised as a commercial enterprise under controlled conditions. "Alligator Farm" also includes alligator ranching wherein eggs are collected from the wild, and raised, pursuant to departmental license or permit.

Alligator Farmer — A properly licensed person who raises alligators under controlled conditions which prohibit free movement of the animals onto and off of the farm or controlled area, or who collects and sells wild alligator eggs, and who may harvest alligators under the supervision of the department. An alligator farmer must possess a valid nongame quadruped breeder's license.

Alligator Hide Tag — An official CITES serially numbered

tag issued by the department.

Alligator Hunter — A properly licensed resident or nonresident person who takes wild alligators. Resident hunters are divided into four classes:

a. **Commercial** — Anyone who is licensed by the department to take wild alligators after having filed application(s) approved by the department which authorize the issuance of alligator hide tags to him.

b. **Helper** — Anyone who is licensed by the department to assist a commercial hunter during alligator harvest activities; alligator hide tags cannot be issued to a helper license holder.

c. **Sport** — Anyone who is licensed by the department and guided by a commercial hunter during alligator harvest activities; alligator hide tags cannot be issued to a sport license holder.

d. **Nuisance** — A licensed alligator hunter who is contracted or otherwise selected by the department to remove designated nuisance alligators and who can be assigned alligator hide tags by the department.

Alligator Part — Any part of the carcass of an alligator, except the hide and includes the bony dorsum plates, if detached from the tagged alligator hide.

Alligator Parts Dealer — Any properly licensed person who deals in alligator parts other than hides and who:

a. buys unprocessed alligator parts from an alligator hunter, another parts dealer, or an alligator farmer for the purpose of resale; or

b. manufactures within the state non-edible alligator parts into a finished product; or

c. purchases unprocessed alligator meat or processes alligator meat for wholesale or retail sale.

Alligator Parts Retailer — Any properly licensed person who purchases for retail sale finished alligator parts made from parts other than hides.

Alligator Shipping Label — A serially numbered green label issued by the department required on each shipment of alligators being transported out of the state.

Bona Fide Resident —

a. Any person who has resided in the state of Louisiana continuously during the 12 months immediately prior to the date on which he applies for any license and who has manifested his intent to remain in this state by establishing Louisiana as his legal domicile, as demonstrated with all of the following, as applicable:

i. If registered to vote, he is registered to vote in Louisiana;

ii. if licensed to drive a motor vehicle, he is in possession of a Louisiana driver's license;

iii. if owning a motor vehicle located within Louisiana, he is in possession of a Louisiana registration for that vehicle;

iv. if earning an income, he has filed a Louisiana state income tax return and has complied with state income tax laws and regulations.

b. As to a corporation or other legal entity, a resident shall be any which is incorporated or otherwise organized under and subject to the laws of Louisiana, and as to which the principal place of business and more than 50 percent of the officers, partners, or employees are domiciled in Louisiana.

Closed Season — That period of time of a calendar year not specifically included in the open season.

Commission — The Louisiana Wildlife and Fisheries Commission.

Common Carrier — Any agency or person transporting passengers or property of any description for hire.

Confiscation — The exercise of a right under the police power wherein property is seized and held pending court order if the seized material is nonperishable, or disposed of without judicial intervention if perishable.

Consumer — Restaurants and other places where alligator, fish, shrimp, or other aquatic life is prepared for human consumption; or any person using alligator, fish, shrimp, or other aquatic life for bait or personal consumption.

Department — The Louisiana Department of Wildlife and Fisheries.

Designated Collection Agent — Anyone who is permitted by the department to assist an alligator egg collection permittee during alligator egg collection.

Dressing, Dressed Skins or Dressed Furs — (See "Tanning").

Finished Alligator Part — Any non-edible alligator part that has been completely processed from parts other than hides for retail sale.

Fur Buyer — Anyone who buys whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs or skins from fur trappers, alligator hunters, alligator farmers, fur buyers, or fur dealers and who sells to another fur buyer or fur dealer within the confines of the state or to a nonresident fur dealer licensed by the state of Louisiana in interstate commerce, or who acts as an agent of another fur buyer or fur dealer in this state in such purchase or sale. Fur buyers are divided into two classes, resident and nonresident. Resident fur buyers are those who are bona fide residents of this state. All others are nonresident fur buyers.

Fur Dealer — Anyone who deals in whole nongame quadrupeds for the purpose of pelting, carcasses of fur bearing animals, raw furs and skins and who:

a. buys from a fur trapper, alligator hunter, or alligator farmer, either directly or indirectly, and ships or exports from this state, either directly or indirectly, the raw furs and skins so bought; or

b. buys from a fur buyer or other fur dealer and exports from this state the raw furs and skins so bought; or

c. buys from a fur trapper, alligator hunter, alligator farmer, fur buyer, or other dealer and sells such raw furs and skins for manufacturing into a finished product in this state; or

d. manufactures such furs and skins into a finished product in this state, buying directly from a fur trapper, alligator hunter, alligator farmer, fur buyer, or fur dealer; or

e. transports raw furs or skins into this state for the purpose of sale within the state. Fur dealers are divided into two classes, resident and nonresident. Resident fur dealers are those who are bona fide residents of this state. All others are nonresident fur dealers;

f. converts raw alligator skins through the tanning process into finished or partially finished leather and/or converts raw (green or dried) fur pelts into dressed furs ready for manufacturing.

Hatchling — A young of the year alligator which is less than 23 inches in length.

Hide — (See "Pelt").

Hook — Any curved or bent device attached to a line or pole for the purpose of taking alligators.

Hunt — In different tenses, attempting to take.

Incubator — An apparatus designed and used for the

primary purpose of incubating alligator eggs.

Land Manager — Any authorized person who represents the landowner.

Landowner — Any person who owns land which the department has designated as alligator habitat.

Licensee — Any resident or nonresident lawful holder of an effective license duly issued under the authority of the department.

Nongame Quadruped — Alligators, beavers, bobcats, coyotes, gray foxes, minks, muskrats, nutrias, opossums, otters, raccoons, red foxes, skunks, and other wild quadrupeds valuable for their furs or skins.

Nongame Quadruped Breeder — A person properly licensed to engage in the business of raising, exhibiting and selling nongame quadrupeds on alligator or fur farms.

Nongame Quadruped Exhibitor — A person properly licensed to engage in the business of raising and/or exhibiting nongame quadrupeds.

Nonresident — Any person who is not a bona fide resident as that term is defined by R.S. 56:8(12).

Nuisance Alligator — A specific (particular) alligator that poses a threat to human life or property.

Open Season — That period of time set by the Louisiana Wildlife and Fisheries Commission, during which wild alligators or their eggs may be lawfully taken.

Out-of-State Shipping Seal — A special locking device or seal supplied by the department and placed on or across a shipping container by department personnel prior to shipping out-of-state.

Out-of-State Shipping Tag — An official, serially numbered tag, yellow in color, issued by the department required on each shipment of alligator hides shipped out of state.

Part — For purposes of this Section, a part is a division of a subsection.

Pelt — The skin or hide of a quadruped.

Pelting — Removing the skin and/or fur of a quadruped in such a manner as to render it marketable.

Person — Includes any individual person, association, corporation, partnership, or other legal entity recognized by law.

Pole Hunting — The act of taking an alligator from a den with a hook pole or snagging device of any type and includes using such devices to induce an alligator to move from a den prior to taking.

Possess — In its different tenses, the act of having in possession or control, keeping, detaining, restraining, or holding as owner, or as agent, bailee, or custodian for another.

Processed Alligator Part — Any part (and its resulting products) that has been removed from a legally taken alligator and for commercial purposes converted into a finished alligator part, or meat prepared and packaged for retail sale.

Propagation — The holding of live alligators for production of offspring.

Raising — The production of alligators under controlled environmental conditions or in outside facilities.

Rearing — (See "Raising").

Resident — (See "Bona Fide Resident").

Secretary — The secretary of the Louisiana Department of Wildlife and Fisheries.

Skin — (See "Pelt").

Take — In its different tenses, the attempt or act of

hooking, pursuing, netting, capturing, snaring, trapping, shooting, hunting, wounding, or killing by any means or device.

Tanning — The conversion of alligator skins or fur pelts into an intermediate or finished form and includes the following: crust tanning alligator leather, dyeing alligator leather, glazing alligator leather, tanning fur pelts, shearing fur pelts, and dyeing fur pelts, and includes the dressing of skins and furs.

Transport — In its different tenses, the act of shipping, attempting to ship, receiving or delivering for shipment, transporting, conveying, carrying, or exporting by air, land, or water, or by any means whatsoever.

Wildlife — All species of wild vertebrates.

Wildlife Management Area — Any area set aside, maintained, and supervised by the department for the purpose of managing and harvesting wild birds, wild quadrupeds, fish and other aquatic life under controlled conditions to afford maximum public hunting and fishing opportunity.

Wildlife Refuge — Any area set aside and designated by the department as a refuge on which wild birds and animals are protected. Control of certain forms of wildlife may be conducted by the department.

C. General Rules

1. No person shall take, possess, purchase or sell alligators, alligator eggs, alligator hides, alligator parts, or goods manufactured from alligators, except as provided in these regulations and La. R.S. Title 56.

2. Each alligator, alligator hide, alligator egg, or alligator part taken or possessed in violation of these regulations shall constitute a separate offense.

3. Alligators or hides of alligators harvested in Louisiana shall be tagged in accordance with provisions as prescribed in Subsection F, Paragraph 5 of these regulations and deviation from those requirements shall be a violation and subject hides to confiscation. Violation of this Part is a class 4 violation as described in Title 56.

4. Pole hunting is prohibited. It is legal for a hunter to retrieve a shot alligator with a hook pole or to retrieve with a hook pole an alligator taken on a hook and line. Violation of this Part is a class 2 violation as described in Title 56.

5. An alligator hunter must possess on his person one or more current alligator hide tags issued for the property on which he is hunting; and if participating in a joint hunting operation at least one licensed hunter needs to possess current hide tags issued for the property on which they are hunting among a group of licensed hunters who are physically present in the same location. Violation of this Part is a class 2 violation as described in Title 56.

6. No person shall release any alligator from any taking device for any purpose without first dispatching the alligator. After the alligator is removed from the taking device the hide tag shall be properly attached immediately upon possession. Violation of this Part is a class 4 violation as described in Title 56.

7. Taking or collection of any wild alligator illegally is strictly prohibited. Violation of this Part is a Class 4 violation for each alligator taken as described in Title 56. All alligators taken in violation of this Part shall be confiscated and in addition to all other penalties provided herein, all alligator licenses of any type held by the offender(s) shall be revoked for a period of three calendar years. If violation(s) of this Part

involves a farm operation, no alligators shall be raised or propagated on the offender's facilities for a period of three calendar years. Any live alligator(s) confiscated pertinent to any violation of this Part must be returned to the wild when appropriate. Selection of the release site and time of year of the release shall be accomplished only after consultation with and in agreement with biological staff of Fur and Refuge Division.

8. The shipment of alligator eggs out of state is prohibited except where special scientific permits have been obtained in advance from the department which specify all such shipments. Violation of this Part is a class 4 violation as described in Title 56.

9. Transportation of alligator(s) into this state without prior written approval of the department is strictly prohibited. Violation of this Part is a class 4 violation as described in Title 56.

10. It is unlawful to ship alligator eggs into the state of Louisiana unless they are to be used for department-sponsored scientific studies and these shipments shall have prior written department approval. Violation of this Part is a class 4 violation as described in Title 56.

11. The shipment of live alligators or alligator eggs out of the United States is strictly prohibited unless they are used for department-sponsored scientific studies with an accompanying authorization signed by the secretary. The transfer of ownership of live alligators out of their natural range for commercial purposes is strictly prohibited. However, this Part does not prohibit a licensed Louisiana alligator farm from raising alligators of Louisiana origin in a non-range state provided the non-range farm is in complete compliance with all applicable state(s) and federal regulations. Violation of this Part is a class 3 violation as described in Title 56.

12. There is levied a severance tax of \$.25 on each alligator hide taken from within the state, payable to the state through the department by the alligator hunter or alligator farmer shipping or taking his own catch out of state, or by the dealer shipping skins or hides out of state or tanning alligator skins in Louisiana. Violation of this Part is a class 2 violation as described in Title 56.

13. An alligator hunter or alligator farmer may give alligator parts to anyone for personal use. Any part of an alligator shall have affixed thereto the name, address, date, hide tag number, and the license number of the person donating the alligator part(s). This information shall be legibly written in pen or pencil on any piece of paper or cardboard or any material which is attached to the part(s) or to the container enclosing the part or parts. This information must remain affixed until the part(s) has been stored at the domicile of the possessor. Violation of this Part is a class 2 violation as described in Title 56.

14. a. R.S. 56:280, passed in the regular session of the 1992 Louisiana Legislature established a state policy which protects white or albino alligators and except under department permit prohibits the taking of white or albino alligators from the wild.

b. Conditions under which any alligator that is white or albino may be taken from the wild and under official department permit include:

i. Landowners or licensed alligator farmers or ranching operators may capture live and unharmed a white or albino alligator for its own protection. All such instances of possession shall be reported immediately to the department.

ii. Any white or albino alligator hatchling produced from wild collected eggs authorized by a department Alligator Egg Collection Permit will remain in the possession of such licensed operators. Any white or albino hatchling must be reported immediately upon hatching to the department on a standard activity report form.

iii. Any person who unintentionally takes from the wild any alligator that is white or albino by hook and line shall immediately report its presence and location to the department. Department personnel of the Fur and Refuge Division will on a case-by-case basis determine the disposition of any such white or albino alligator which is unintentionally hooked.

c. Any white or albino hatchling produced from a licensed breeding pen will remain in the possession of such licensed operators but must be reported immediately upon hatching to the department on a standard activity report.

d. It shall be a violation if any person intentionally takes from the wild any alligator that is white or albino by any means.

e. Violation of R.S. 56:280 shall subject the violator to a fine of not less than \$10,000 and imprisonment for not less than six months or more than 12 months, or both.

15. Alligator meat and parts may be shipped in containers that are sealed and the parts identified to the CITIES tag of origin. A fully executed alligator hunter, farmer, or parts dealer Alligator Parts Sale or Transaction form shall meet the U.S. Fish and Wildlife Service parts identification requirements, provided such form(s) is/are prominently attached to the outside of each shipping container. Alligator meat/parts shipped to another state must meet applicable state/federal requirements of the receiving state. Alligator meat/parts exported from the United States must meet the requirements of the U.S. Fish and Wildlife Service as well as those of the receiving country. Violation of this Part is a class 3 violation as described in Title 56.

D. Licenses, Permits and Fees

1. The licenses and fees required for activities authorized by these regulations are as prescribed under provisions of Title 56, or as prescribed in these regulations, and are:

- a. \$25 for a resident alligator hunter's license; including commercial, helper, sport, and nuisance types;
- b. \$150 for a nonresident alligator hunter's license;
- c. \$25 for a resident fur buyer's license;
- d. \$100 for a nonresident fur buyer's license;
- e. \$150 for a resident fur dealer's license (\$500 deposit required);
- f. \$300 for a nonresident fur dealer's license (\$1,000 deposit required);
- g. \$10 for a nongame quadruped exhibitor's license;
- h. \$25 for a nongame quadruped breeder's license;
- i. \$50 for a alligator parts dealer license;
- j. \$5 for a alligator parts retailer license;
- k. \$4 for each alligator hide tag;
- l. \$4 for each whole alligator leaving the state as alligator shipping label fee;
- m. \$0.25 severance tax for each alligator hide taken from within the state;
- n. \$25 for a Designated Agent Collection Permit.

All license types prescribed above except nongame quadruped exhibitor and breeder expire annually on June 30. Nongame quadruped exhibitor and breeder licenses expire annually on December 31.

2. No person may take, attempt to take, or possess a wild alligator in this state during the open season for taking wild alligators unless he or she has acquired and possesses an alligator hunter's license. An alligator hunter must have in possession a valid alligator hunter license to take or sell alligators, their skins, or parts. Violation of this Part is a class 3 violation as described in Title 56.

3. No person may engage in the business of buying and selling alligators or alligator skins unless he has acquired a resident or nonresident fur buyer's license. No resident or nonresident fur buyer shall ship furs, alligators, or alligator skins out of state. Violation of this Part is a class 3 violation as described in Title 56.

4. No person may engage in the business of buying and selling alligator or alligator skins or shipping alligator skins out of state or tanning alligator skins within the state unless he has acquired a resident or nonresident fur dealers license. Violation of this Part is a class 3 violation.

5. No person may engage in the business of raising and/or exhibiting alligators unless he or she has acquired and possesses a valid nongame quadruped exhibitor license. Violation of this Part is a class 3 violation as described in Title 56.

6. No person may engage in the business of raising, breeding, collecting and selling alligator eggs from the wild, propagating, exhibiting and selling alligators alive or selling their parts, and killing and transporting them and selling their skins and carcasses unless he or she has acquired and possesses a valid nongame quadruped breeder license and complies with Subsections N and O of these regulations. Violation of this Part is a class 3 violation as described in Title 56.

7. No person shall engage in the business of buying and selling unprocessed alligator parts unless he has acquired and possesses a valid alligator parts dealer's license. Violation of this Part is a class 2 violation as described in Title 56.

8. Each retailer purchasing for retail sale, finished alligator parts made from parts other than hides, shall secure from the department an alligator parts retailer license prior to commencing business. Violation of this Part is a class 2 violation as described in Title 56.

9. No person shall remove and possess alligator eggs from wild nests unless he has acquired and possesses a valid nongame quadruped breeder license or a valid Designated Agent Collection Permit and also has in his possession a valid alligator egg collection permit. Egg collection permits will only be issued to those persons who demonstrate competency in egg collection and handling, have necessary equipment accessible and comply with all department requirements as described in Subsection N of these regulations. Violation of this Part is a class 4 violation as described in Title 56.

10. No person shall ship or transport alligators out of the state without first applying for and receiving an alligator shipping label which shall be affixed to each shipment of alligators and is properly completed and validated by department personnel. Violation of this Part is a class 3 violation as described in Title 56.

11. Every alligator hunter or alligator farmer shipping or transporting his own catch of alligator skins out of state is liable for the severance tax thereon, and shall apply for an official out-of-state shipping tag to be attached to the

shipment and shall pay the severance tax prior to shipment. Violation of this Part is a class 2 violation as described in Title 56.

12. Valid holders of alligator hunter license, nongame quadruped breeder license, fur dealers license and alligator parts dealer license must comply with the receiving state/country requirements and with federal licensing, tagging and permit requirements to engage in interstate and international commerce involving alligators, alligator hides, alligator parts and fully manufactured alligator hide products. Violation of this Part is a class 2 violation as described in Title 56.

E. Wild Harvest Methods

1. Alligators taken from the wild may be removed from hook and line, and other legal capture devices which may be used, only during daylight hours, between official sunrise and official sunset. Violation of this Part is a class 4 violation as described in Title 56.

2. There are no size restrictions on wild alligators taken during the general open season.

3. Legal methods for taking alligators in the wild are as follows:

- a. hook and line;
- b. long (including compound) bow and barbed arrow; and
- c. firearms.

Violation of this Part is a class 2 violation as described in Title 56.

4. Hooks and arrows may be used only when a line of at least 300-pound test is securely attached to the hook or head of the arrow in such a manner to prevent separation from the hook or head until the carcass is retrieved. The other end of the line must be attached to a stationary or floating object capable of maintaining the line above water when an alligator is attached. Violation of this Part is a class 2 violation as described in Title 56.

5. Alligator hunters shall inspect their hooks and lines and remove captured alligators daily. Alligators shall not be cut loose from hooks and lines for the purpose of selecting larger alligators. All hooks and lines shall be removed when an alligator hunter's quota is reached. In the event an alligator is hooked and the hunter's quota has been reached the hunter must release the alligator in the most humane method possible. Violation of this Part is a class 2 violation as described in Title 56.

6. Baited hooks and lines may be set no more than 24 hours prior to the general open season and shall be removed no later than sunset of the last day of the open season. Violation of this Part is a class 2 violation as described in Title 56.

7. No person possessing alligator hide tags issued for privately-owned land or water may take alligators on adjacent publicly-owned water unless the taking device is anchored to privately-owned land or the person is on privately-owned land when the taking occurs, provided that any alligator captured on a legal taking device that is anchored to privately-owned land or held by a person on privately-owned land may be dispatched from a floating craft on public water. Violation of this Part is a class 2 violation as described in Title 56.

8. A person possessing alligator hide tags for publicly-owned areas may take alligators by legal means from a floating craft on public water for which the tags are issued.

F. Alligator Hide Tag Procurement and Tagging

Requirements

1. Alligator hide tags may be obtained as follows and only to properly licensed alligator hunters and nongame quadruped breeders.

2. Landowners, Land Managers and Hunters - upon application to the department on forms provided for tag issuance. Applications for alligator tag allotments will be taken annually beginning August 1 and ending 10 days after the season opens. Tags will not be issued after the tenth day following the season opening date.

a. Maximum tag issuance to individual landowners, land managers, or their hunters shall be determined solely by the department. Landowners, land managers, or their hunters shall certify total acreage owned or represented on a form prescribed by the department at the time of application. The location and acreage of the property must be provided which includes parish, township, range and section delineation figures.

b. Land managers and hunters must present a notarized document from the landowner verifying their selection to represent that landowner and the total acreage represented to obtain hide tags.

c. Payment for all alligator tags shall be received by the department prior to issuance. Numbered alligator hide tags shall only be issued in the name of the license holder and are nontransferable. A refund will be issued for all unused alligator tags which are returned within 15 days following the close of the season.

3. Alligator farmers - upon request and receipt of payment to the department at any time at least two weeks prior to scheduled harvesting, subject to verification of available stock by department personnel. A refund will be issued for all unused alligator tags returned to the department within 15 days following the last day of the year that issued tags are valid.

4. If an alligator hunter is cited for hunting alligators out of season, or at night, or on property other than that for which hide tags were issued, all unused hide tags and alligators in possession shall be confiscated and the violator's alligator hunting license shall be revoked. Violation of this Part is a class 4 violation as described in Title 56.

5. A hide tag shall be properly attached and locked using the tag's locking device in the alligator's tail immediately upon possession by an alligator hunter. Alligator farmers, fur buyers and fur dealers may wait until farm raised alligators are skinned prior to tagging, but under no circumstances can the tag be attached using the locking device more than 48 hours after dispatching the alligator. Live or dead farm raised alligators may be transported with their accompanying tags from a licensed alligator farm to a licensed processing facility, however, each shipment shall be accompanied with the exact number of alligator hide tags. In the event that an alligator tag contains a factory defect rendering it unusable for the purpose intended or becomes detached from an alligator or hide, the tag must be reattached to the tail of the alligator/hide. The department will be responsible for the replacement of reattached tags prior to shipping out-of-state or prior to tanning within the state. It shall be unlawful to tag or attempt to tag an alligator with a tag that has been locked prior to the taking. Locked tags may be replaced upon request at the discretion of the department. The alteration of hide tags is strictly prohibited and will result in the confiscation of all tags and alligators/hides and the revocation of the violator's alligator

hunting license. Violation of this Part is a class 4 violation as described in Title 56.

G. Open Season, Open Areas, and Quotas

1. Open seasons are as follows.

a. The general open season for taking alligators in the wild may be established annually by the commission at their regular July meeting. The secretary shall be authorized to close, extend or reopen the season as biologically justifiable.

b. Nuisance control hunters may take nuisance alligators at any time as prescribed by the department.

c. Farm-raised alligators may be taken at any time following the issuance of hide tags by the department.

d. The open season for collection of alligator eggs from the wild shall be from May 15 through September 1 of each calendar year. Violation of this Subpart is a class 4 violation as described in Title 56.

2. The open areas are as follows.

a. For the general open season, those areas designated by the biological staff of the department as alligator habitat and which can sustain an alligator harvest.

b. The department may select public lakes and lands for an experimental alligator hunting program. The harvest will be controlled by a tag allotment for each lake as determined by department personnel. Applicants for public lake hunting must be 16 years of age or older. Applications must be received at least 10 days prior to the season opening date. A public drawing will be held to select hunters. An alligator hunter can receive tags for and hunt on only one public lake per season. The tag quota for each lake and hunter will be established by the biological staff of the department. Alligator tags issued on public lakes and lands are nontransferable.

c. Wild alligators in the remainder of the state may be taken only under provisions as prescribed by the department.

d. The open alligator egg collection season shall be those areas designated by the biological staff of the department as alligator habitat which can sustain an egg collection harvest and egg quotas will be determined by department biologists.

3. The daily and season quota is equal to the number of valid alligator hide tags that a licensed alligator hunter possesses. Violation of this Part is a class 4 violation as described in Title 56.

4. Non resident alligator hunters may only take three alligators during the open season. Violation of this Part is a class 3 violation as described in Title 56.

5. Harvest rates will be calculated annually by department personnel based on biological data. Alligator hide tag allotments will be established prior to issuance of alligator hunting licenses.

H. Possession

1. No person shall possess alligators or alligator hides in Louisiana without valid official tags properly attached in the tail using the locking device as prescribed in Subsection F, Paragraph 5. Violation of this Part is a class 4 violation as described in Title 56.

2. Alligator farmers may request hide tags or shipping labels from the department to be used on farm-raised alligators that have died and may hold those alligators in freezers until receipt of the requested hide tags or shipping labels. These alligators may be held in freezers for a maximum of 60 days prior to disposal. All alligators 24 inches and greater in length that die may be skinned and

tagged with an alligator hide tag within 48 hours of death. Violation of this Part is a class 3 violation as described in Title 56.

3. No person other than a licensed alligator hunter, licensed alligator farmer, licensed fur buyer or licensed fur dealer may possess a tagged or labeled alligator, a tagged raw or salted hide of an alligator at any time, provided that legally documented tagged or labeled alligators or tagged hides may be possessed without license while in transit, or during processing for tanning or taxidermy. However, properly tagged and documented alligators or hides may be stored at any location at the owner's discretion. Violation of this Part is a class 4 violation as described in Title 56.

4. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess live alligators at any time other than by a permit issued by the department upon request for use in displays and educational purposes, and by holders of valid department issued permits for scientific purposes. Live, farm-raised alligators and their accompanying alligator hide tags may be held for processing by a properly licensed alligator skinning facility without a license or permit. Violation of this Part is a class 4 violation as described in Title 56.

5. No person other than a licensed alligator farmer or licensed nongame quadruped exhibitor shall possess alligator eggs at any time other than department permitted designated collection agents assisting a licensed and permitted alligator farmer during wild egg collection, or a holder of a valid department issued permit for scientific purposes. Violation of this Part is a class 4 violation as described in Title 56.

6. Any alligators hatched from scientific permits issued by the department shall be returned to the wild under departmental supervision following completion of the research project. Violation of this Part is a class 2 violation as described in Title 56.

I. Importation, Exportation, Purchase, and Sale

1. Alligators, alligator hides (raw or salted), or parts of alligators, may be brought into the state only if the alligators, alligator hides or parts of alligators were lawfully taken in another state or country and the person, firm or corporation bringing the alligators, alligator hides (raw or salted), or alligator parts into the state has obtained written permission from the department. Violation of this Part is a class 4 violation as described in Title 56.

2. All alligators, alligator hides (raw or salted), or parts of alligators possessed, sold, purchased, exported, imported, or brought into the state from another state shall be accompanied by documented evidence that they were lawfully taken. Documented evidence shall consist of, but not be limited to:

a. a resource user license or permit number allowing the taking of alligators and tags or other identification required by the state or country of origin shall be firmly attached to the alligator, alligator hide, or parts of alligators; and

b. a tag or label is affixed to the outside of any package or container of alligators, alligator hides, or alligator parts that specifies type of contents, indicates quantity contained, and lists applicable license or permit numbers.

Violation of this Part is a class 2 violation as described in Title 56.

3. Purchases of alligators, alligator hides, alligator eggs, and alligator parts are restricted as follows.

a. A licensed alligator hunter may not purchase alligators or alligator hides from anyone.

b. A licensed fur buyer may purchase whole alligators or alligator hides from a Louisiana licensed alligator hunter, licensed alligator farmer, licensed fur dealer, or another fur buyer.

c. A licensed fur dealer may purchase whole alligators or alligator hides from a licensed alligator hunter, licensed alligator farmer, fur buyer or another fur dealer.

d. A licensed alligator farmer may purchase live alligators only from another licensed alligator farmer (with a department-approved Alligator Transfer Authorization Permit) or the department.

e. An alligator farmer may purchase alligator eggs only from another alligator farmer, a landowner/land manager (with an approved department alligator egg collection permit), or the department.

f. A licensed alligator parts dealer may purchase alligator parts from a licensed alligator hunter, alligator farmer, another alligator parts dealer, or the department.

g. A licensed alligator parts retailer may purchase processed alligator meat or finished alligator parts for retail sales.

h. A restaurant may purchase processed alligator meat to be prepared for human consumption with an alligator parts retailer license.

4. Sales of alligators, alligator eggs, and alligator parts are restricted as follows:

a. A licensed alligator hunter may sell alligators, alligator hides, or alligator parts taken by the licensee during the general open season to anyone who may legally purchase.

b. A licensed alligator farmer may sell alligators, alligator eggs, alligator hides, or alligator parts to anyone who may legally purchase. The sale of alligator eggs or live alligators shall only occur following the issuance of a Transfer Authorization Permit. Application for the permit shall be made at least two weeks prior to the transfer.

c. A licensed fur buyer may sell whole alligators or alligator hides to a fur dealer or another fur buyer within the confines of the state.

d. A licensed fur dealer may sell whole alligators or alligator hides to anyone who may legally purchase.

e. A licensed alligator parts dealer may sell alligator parts, other than hides, to anyone.

f. A licensed alligator parts retailer may sell finished alligator parts to anyone.

5. Legally tagged and documented alligators, alligator hides, and parts of alligators taken in Louisiana may be shipped out of state or exported by alligator hunters, alligator farmers, fur dealers and alligator parts dealers subject to Subsection K of these regulations (relating to report requirements) provided that no live alligators or eggs originating in Louisiana may be exported outside of their natural range without specific department authorization and the concurrence of the United States Fish and Wildlife Service, to be used only for scientific purposes. Violation of this Part is a class 3 violation as described in Title 56.

6. A special permit is required of anyone who sells alligator eggs, or live alligators. Violation of this Part is a class 4 violation as described in Title 56.

J. Nuisance Alligator Control

1. Nuisance alligator hunters will be selected by the department with proper screening by enforcement personnel

in the region of appointment. Selection may be based upon recommendations received from the local governing body. Applicants with prior alligator hunting violations will be rejected.

2. Nuisance alligator hunters shall purchase a valid alligator hunter license and are bound by all laws, rules and regulations governing alligator hunting with the exception that nuisance alligators may be taken at anytime.

3. Nuisance alligator complaints will be verified by department personnel prior to being approved for removal.

4. Tags will be issued to nuisance alligator hunters. Nuisance alligator hunters will attempt to catch nuisance alligators and relocate to natural habitat selected by the department. It is unlawful for any nuisance alligator captured alive to be sold or otherwise disposed of on an alligator farm. Alligators and alligator parts taken under these provisions may be retained and sold by the nuisance alligator hunter as any other legally taken wild alligator or alligator part. Violation of this Part is a class 4 violation as described in Title 56.

5. Nuisance alligator hunters may take alligators by any means prescribed by the department. Failure to comply with departmental instructions may result in immediate termination of the individual's participation in the nuisance alligator program. Violation of this Part is a class 2 violation as described in Title 56.

K. Report Requirements

1. Report forms provided by or approved by the department must be completed and filed with the department by all persons who have been issued an alligator hunter's license, fur buyer's license, fur dealer's license, nongame quadruped exhibitor's license, nongame quadruped breeder's license, alligator parts dealer's license, or alligator egg collection permit in accordance with this Subsection. Reports shall include but not be limited to the information specified in this Subsection.

2. Alligator hunters receiving hide tags from the department are responsible for disposition of all issued tags and must:

a. complete an official alligator parts transaction form furnished by or approved by the department at the time of each alligator part transaction. These forms shall be submitted to the department at the end of the calendar year;

b. complete an official lost tag form, furnished by the department for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the close of the season. Lost or stolen tags will not be replaced;

c. all unused tags must be returned to the department within 15 days following the close of the season. Tag fees will only be reimbursed during this specific time period;

d. the department must be notified of any trophy skins not sold to commercial buyers or dealers within 30 days following the close of the season, on official forms provided by or approved by the department;

e. each licensed alligator hunter selling alligator parts to a person or a restaurant shall provide that person with a bill of sale for each transaction;

f. all records of commercial transactions involving alligator parts by alligator hunters shall be available for inspection by the department.

Violation of this Part is a class 2 violation as described in Title 56.

3. A nuisance alligator hunter shall comply with the

same report requirements as a commercial alligator hunter and complete any other reports required by the department. Violation of this requirement shall result in immediate termination of nuisance alligator hunter status. Violation of this Part is a class 2 violation as described in Title 56.

4. Alligator farmers receiving hide tags from the department are responsible for disposition of all issued tags and must:

a. complete an official alligator parts transaction form, furnished by or approved by the department at the time of each alligator parts transaction. These forms shall be submitted to the department along with the annual report. Violation of this Part is a class 2 violation as described in Title 56;

b. complete an official lost tag form, furnished by the department, for any hide tags lost or stolen. These forms shall be submitted to the department within 15 days following the last day of the year that issued tags are valid. Lost or stolen tags will not be replaced. Violation of this Part is a class 2 violation as described in Title 56.

c. all unused hide tags must be returned to the department within 15 days following the last day of the year that issued tags are valid. Violation of this Part is a class 3 violation as described in Title 56.

d. each alligator farmer shall report annually, no later than December 1, on an official form provided by the department, all activities that have occurred on the farm for the past year including but not limited to the number of live alligators as of that date, separated by sizes, the number of eggs collected and hatched, the purchase and sale of alligators, hides, and parts for the past year and the numbers of alligators lost. Failure to complete this form properly and completely will result in nonrenewal of the nongame quadruped breeder's license. Violation of this Part is a class 3 violation as described in Title 56;

e. each licensed alligator farmer selling alligator parts to a person or a restaurant shall furnish that person with a bill of sale for each transaction. Violation of this Part is a class 2 violation as described in Title 56;

f. each alligator farmer collecting alligator eggs, hatching alligator eggs, selling alligators for processing, or selling alligator skins shall submit completed forms as provided by the department within 10 days following completion of the activity. Violation of this Part is a class 3 violation as described in Title 56.

5. Fur buyers, fur dealers, alligator farmers and alligator hunters engaged in the business of buying and/or selling whole alligators or alligator hides must keep within the state a complete record on forms provided by or approved by the department, all purchases and sales of whole alligators or alligator hides as described in Title 56, and;

a. every fur buyer, fur dealer, alligator farmer or alligator hunter having undressed alligator hides in his possession shall file with the department within 60 days of purchase or within 60 days of tagging or prior to shipping out of state or prior to tanning skins in Louisiana, whichever occurs first, a complete report, on forms provided by or approved by the department, a detailed description of alligator hides to be shipped or tanned. At the time of shipment or prior to tanning, department personnel will inspect hides and replace any broken or reattached tags. Department personnel will issue the appropriate number of yellow shipping tags, one for each shipment. At that time, department personnel will

affix a seal/or locking device to each container and if container is reopened by anyone other than department personnel or federal personnel this action will be considered illegal. In conjunction with the inspection and prior to department issuance of shipping tag(s) and seal(s) or locking device(s), department personnel must collect:

- i. all completed buyer/dealer records for skins in each shipment;
- ii. shipping manifest including each skin in shipment;
- iii. stub portion of yellow shipping tag completely filled-out;
- iv. severance tax owed by alligator hunter, alligator farmer or fur dealer.

If any of the above requirements are not satisfied, the shipment will not be authorized.

Violation of this Part is a class 3 violation as described in Title 56.

6. Fur dealers engaged in the business of buying and selling alligator hides must maintain complete records of alligator hides purchased inside and outside the state as described in Title 56. Fur dealers in the business of tanning alligator hides must provide a monthly report, on forms provided by or approved by the department, of all alligator hides being held in inventory. Failure to maintain complete records and to pay the required severance tax subjects any dealer to the full penalties provided and the immediate revocation of his license by the department. No license shall be issued to a dealer who has not paid the tax for the preceding year. Violation of this Part is a class 3 violation as described in Title 56.

7. Alligator parts dealers acquiring alligator parts, shall complete an official alligator parts purchase form at the time of each purchase. Alligator parts dealers selling alligator parts, shall complete an official alligator parts sale form at the time of each sale. These forms shall be furnished by or approved by the department and shall be submitted to the department annually, no later than June 30, and;

- a. alligator parts dealers shall furnish a bill of sale to anyone purchasing alligator parts.
- b. the records of transactions involving alligator parts shall be available for inspection by the department and shall be maintained complete for a period of one year following any transaction.

Violation of this Part is a class 2 violation as described in Title 56.

8. Any alligator parts retailer purchasing finished alligator parts shall maintain a bill of sale for each purchase for a period of six months after such purchase and these records shall be available for inspection by the department. Violation of this Part is a class 2 violation as described in Title 56.

L. Alligator Meat

1. Alligator meat from lawfully taken alligators can only be sold according to state and federal laws, Louisiana Department of Health and Hospitals regulations and Louisiana Wildlife and Fisheries Commission regulations. Violation of this Part is a class 3 violation as described in Title 56.

2. Alligator meat processed in the State of Louisiana and sold for human consumption must be processed in a licensed facility approved by the Louisiana Department of Health and Hospitals and the facility must display a valid permit issued by that agency. Violation of this Part is a class 2 violation as described in Title 56.

3. All processed alligator meat for sale must be packaged in suitable containers which identifies the contents as alligator meat, marked with a valid department license number and comply with all state and federal packaging and labeling requirements. Violation of this Part is a class 2 violation as described in Title 56.

4. All alligator meat shipped into the state and being offered for sale must meet all of Louisiana's health, processing, packaging and labeling requirements. Violation of this Part is a class 2 violation as described in Title 56.

M. Disposal of Alligators by the Department

1. The department may sell alligators, alligator eggs or parts of alligators taken for any purpose deemed necessary for proper management of the species pursuant to Title 56.

2. The department may dispose of alligators, alligator eggs, or parts of alligators by donation or lending to a scientific institution or other institutions that the department deems have need for such alligators, however, these institutions cannot sell or barter these animals which must be returned to the department at the conclusion of the program or need.

3. Confiscated alligator hides and parts may be destroyed by the department pending the outcome of the criminal trial.

4. Confiscated alligator eggs or live alligators may be sold or may be cared for by the department and released in suitable alligator habitat when and where they can survive when appropriate. All costs incurred by the department in the maintenance of these eggs and animals in captivity shall be the responsibility of the offender and restitution shall be made to the department. The department may consign confiscated alligators to a licensed farm for raising purposes and may compensate the farmer for his expenses by transferring ownership to him of a percentage of the confiscated alligators; not to exceed 50 percent.

N. Alligator Egg Collection

1. Alligator egg collection permits are a three party permit between the department, the permittee and a landowner/manager who owns or leases alligator nesting habitat determined by department biologists to be capable of producing alligator eggs. The numbers of eggs to be collected will be based upon biological management criteria and will be determined annually by technical staff of the department. The department only estimates the numbers of eggs available and assumes no responsibility or offers no guarantee that those numbers of eggs will be available. Alligator egg collection permits may be obtained upon application to the department on forms provided by the department. The annual deadline for submitting applications for Alligator Egg Collection Permits is June 1. This program is experimental and may be changed at any time based on biological data to insure for proper management of the wild alligator population.

2. Alligator egg collection permits may be issued by the department provided:

- a. permittee is a properly licensed alligator farmer and meets all applicable requirements in Subsection O of these regulations (Alligator Farm Facility Requirements);
- b. all land documentation required on the alligator egg collection permit has been presented to the department;
- c. department biologists determine the properties described on the permit application are indeed alligator nesting habitat and can sustain alligator egg collections;

d. applicant has obtained all legal and necessary signatures from landowners/land managers.

3. It is unlawful for an alligator farmer or a permitted designated collection agent to collect eggs from properties other than those described in the alligator egg collection permit. Violation of this Part is a class 4 violation as described in Title 56.

4. An alligator farmer or designated collection agent in the act of collecting or possessing alligator eggs must possess on his or her person a copy of the fully executed alligator egg collection permit. The designated collection agent must also possess a valid designated collection agent permit.

Violation of this Part is a class 3 violation as described in Title 56.

5. Collection of wild alligator eggs can only be made after contacting the appropriate regional supervisor of the Enforcement Division no less than 24 hours prior to each collection trip.

Violation of this Part is a class 3 violation as described in Title 56.

6. Alligator eggs can only be collected from the wild from official sunrise to official sunset and only during the established alligator egg collection season and shall not exceed the number on his Alligator Egg Collection Permit. Violation of this Part is a class 4 violation as described in Title 56.

7. Alligator eggs collected from the wild must be collected and transported in a manner which ensures the greatest survival of viable eggs as determined by department biologists. Violation of this Part is a class 3 violation as described in Title 56.

8. Failure to hatch at least 70 percent of viable alligator eggs collected from the wild shall be considered a waste of Louisiana's natural resources. All alligator egg collection permits shall be revoked and no new permits issued should an alligator farmer be found to waste the resources of this state for two consecutive years.

9. Alligator egg collection permits shall be revoked and no new permits issued to alligator farmers who fail to average a minimum hatchling survival rate of 85 percent for two consecutive years.

10. The alligator egg collection permittee and the landowner are responsible for the physical return of the percentage of live alligators to the wild described on the alligator egg collection permit. This requirement is nontransferable. Minimum return rates will be based upon the state average hatching success which is 78 percent. Each alligator shall be returned to the original egg collection area within a maximum time of two years from date of hatching. Each alligator shall be a minimum of 36" and a maximum of 60" (credit will not be given for inches above 60") in size and the returned sex ratio should contain at least 50 percent females. The alligator egg collection permittee/landowner are responsible for and must compensate in kind for alligator mortality which occurs for department authorized return to the wild alligators; while being processed, stored, or transported. The department shall be responsible for supervising the required return of these alligators. A department transfer authorization permit is not required for return to the wild alligators which are delivered to the farm of origin no more than 48 hours prior to being processed for wild release. Releases back to the wild

will only occur between March 15 and September 30 of each calendar year provided that environmental conditions as determined by the department are favorable for survival of the released alligators. Should an alligator egg collection permittee be unable to release the required number of alligators to the wild from his own stock, he shall be required to purchase additional alligators from another farmer to meet compliance with the alligator egg collection permit and these regulations, as supervised by the department. Department sanctioned participants in ongoing studies involving survivability and return rates are exempt from these requirements during the period of the study. Violation of this Part is a class 4 violation as described in Title 56.

11. The percentage of alligators to be returned to the wild shall be selected from the healthiest of all alligators of that year class. Abnormal or deformed alligators are not acceptable for release into the wild. It is unlawful for alligators that are to be returned to the wild to be transported out of state. Violation of this Part is a class 4 violation as described in Title 56.

O. Alligator Farm Facility Requirements

1. All first time applicants for a nongame quadruped breeder's or exhibitor's license who will house alligators on their premises shall show compliance of the following minimum facilities as applicable to their particular operation during a required facility examination by department personnel prior to license issuance.

a. Secured premises with adequate barriers to prevent escape of enclosed alligators and entry by alligators from outside the farm and to deter theft of alligators.

b. Source of clean, fresh water which shall be adequate to ensure for proper care of all alligator stock and facilities. This requirement shall be determined by department personnel.

c. Provisions for both dry area and pooled water within the secured area adequate for the numbers of alligators to be housed on the premises. This requirement will be determined by department personnel.

d. Provision for winter protection, either through adequate denning space or an enclosed, controlled-temperature environment of a design acceptable to the department.

e. All controlled-temperature alligator sheds shall be of a design acceptable to the department. Each shed shall be capable of maintaining a minimum constant temperature of 80 degrees Fahrenheit. Minimum space requirements for alligators housed in the shed shall be:

i. one square foot of space shall be required for each alligator less than 24" in length;

ii. three square feet of space shall be required for each alligator measuring 25" to 48" in length;

iii. one additional square foot of space shall be required for each additional six inches of alligator length for alligators above four feet in length.

f. All alligator egg incubators shall be of a design acceptable to the department. Each incubator shall maintain a water and air temperature of 85 to 91 degrees Fahrenheit during the egg incubation.

g. Applicant must be in compliance with all laws and regulations pertaining to zoning, construction, health and environmental standards and must possess any and all applicable permits and licenses.

h. All alligator facilities should be constructed in a

suitable location so as to minimize contact with people.

2. Following initial issuance of applicable license, all applicable facility requirements shall be adhered to and department personnel have the authority to inspect any and all of the facilities at any time. Failure to adhere to the requirements shall be a violation of these rules and violators will be given 60 days to correct the problem. Failure to comply shall result in confiscation of all animals and/or closure of all facilities. Violation of this Part is a class 3 violation as described in Title 56.

3. All alligator farmers possessing alligator eggs outside an alligator nest should house these eggs in an incubator providing constant temperature and humidity conditions. All incubators used to incubate alligator eggs shall be of a design to allow for maximum temperature control and conform to department requirements to allow for the maximum hatching success. Violation of this Part is a class 3 violation as described in Title 56.

4. All alligator farmers possessing alligator hatchlings shall house hatchlings in controlled environmental chambers capable of maintaining a minimum temperature of 80 degrees fahrenheit year round and containing dry and wet areas of sufficient surface area to permit all alligators to completely submerge in water. All alligators 48" or less in length shall be housed in environmental chambers unless a special permit is issued by the department to move them to outside growth areas. Violation of this Part is a class 3 violation as described in Title 56.

5. Alligator farmers shall house alligators of different lengths into at least three groups, providing separation for all alligators less than two feet in length, two to four feet in length, and over four feet in length. Land and water areas sufficient for complete submersion or complete exit from water shall be provided for each group of alligators held. Violation of this Part is a class 3 violation as described in Title 56.

6. All facilities, alligator stock, and records are subject to examination by department personnel prior to permitting and thereafter during farm operation. Violation of this Part is a class 3 violation as described in Title 56.

7. It shall be unlawful for alligator eggs or alligators to be moved from a licensed premises without permitting/approval of the department. Violation of this Part is a class 3 violation as described in Title 56.

P. Exceptions

1. The department or an authorized representative of the department may take by any means and possess alligators or parts of alligators while in the performance of official duties.

2. These regulations shall not prohibit a person from killing an alligator in immediate defense of his or her life or the lives of others. Alligators killed under this provision must be reported to the department within 24 hours.

Q. Penalty for Violation

1. In order to facilitate greater control over alligator trafficking, the Louisiana Department of Wildlife and Fisheries finds that public welfare imperatively requires emergency action when the provisions of these regulations are violated.

2. The department shall have the authority to confiscate any alligators or alligator eggs from any person or facility that is not caring for the alligators or alligator eggs in a humane manner. Inhumane treatment of alligators or alligator eggs consists but is not limited to conditions which

could have an adverse effect upon the alligators or alligator eggs such as sanitary conditions, temperature control, feeding, or overcrowding. The confiscated alligators and alligator eggs shall be disposed of as the department deems necessary. Inhumane treatment of alligators or alligator eggs is a class 4 violation as described in Title 56.

3. In addition to all penalties set forth herein, violators may be subject to criminal prosecution under provisions of the Louisiana Revised Statutes, particularly Titles 14 and 56 and under federal law.

4. In addition to all other penalties provided by these rules and by statute, violation of any part of these regulations may result in the suspension and/or revocation of any or all alligator licenses/permits held by the violator and, as further penalty, for serious, repeat, or multiple violations, the department shall have the right to deny a violator any and all licenses/permits relating to alligators for a period not to exceed three years.

The Wildlife and Fisheries Commission finds that imminent peril to the public welfare exists because the present rule is no longer completely valid because of recent legislative changes concerning the alligator program adopted with the recent signing into law of HB923, HB1314 and SB647, rulings of state courts, pending federal litigation and concerns of the U.S. Fish and Wildlife Service. These changes could drastically impact a thriving \$30 million Louisiana industry if action is not immediately taken. Implementation of the emergency rule will permit uninterrupted continuation of this valuable renewable natural resource program. The Louisiana Wildlife and Fisheries Commission does hereby authorize and delegate to the secretary of the Department of Wildlife and Fisheries, the authority to take any and all necessary steps on behalf of the commission to renew this emergency declaration if needed to ensure the final rule is promulgated, including but not limited to filing of the fiscal and economic impact statements, the filing of the notice of intent and preparation of reports and correspondence to other agencies of government.

James H. Jenkins, Jr.
Chairman

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries
Wildlife and Fisheries Commission

Mullet Harvest

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 56:6(25)(a) which delegates the authority to the commission to set seasons, daily take and possession limits, based upon biological and technical data, and R.S. 56:333 which authorizes the Wildlife and Fisheries Commission to establish rules for the harvest of mullet; the Wildlife and Fisheries Commission hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule.

1. Seasons - A season is hereby set to run from 12:01 a.m. September 15 until 12 p.m. (midnight) October 14 of

each year, with a commercial daily take and possession limit of 200 pounds of mullet per permit holder or per vessel, whichever is less. Outside of this season, mullet may be taken commercially by duly licensed and permitted fishermen with daily take or possession limit of 1,500 pounds of mullet per permit holder or per vessel, whichever is less.

2. Recreational Limit - The daily take and possession limit for recreational harvest of mullet shall be 100 pounds per person, year-round.

3. In addition, all provisions of R.S. 56:333(B)(3) and (4), and 56:333(C) are hereby adopted and incorporated into this rule.

The commission finds that the prior limit of 200 pounds for that season constitutes an immediate threat to markets established for mullet as a food fish during the January 13 to September 14 period. The commission further finds that no biological evidence has been presented to support the 200 pound limit during that time period. The loss of the ability to harvest in these quantities constitutes an imminent peril to the public welfare because of the irrevocable loss of income and commerce to the state. Placement of a recreational take and possession limit allows expedient enforcement of the commercial provisions of this rule. Existing provisions of R.S. 56:333(B)(3) and (4) and 56:333(C) are included in this rule to maintain continuity in the rules governing the fishery through this time period.

James H. Jenkins, Jr.
Chairman

DECLARATION OF EMERGENCY

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

1992 Inshore Shrimp Season

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act and pursuant to R.S. 56:497 and the authority granted by the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 7, 1992, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The 1992 spring inshore shrimp season in Zone III, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay west to the Louisiana/Texas state line will close at 12:01 a.m. Saturday, July 11, 1992 (one minute after midnight Friday, July 10, 1992). A special extension for wingnet fishing will begin in Zone III at 12:01 a.m. Saturday, July 11 (one minute after midnight Friday, July 10) and extends through 12:01 a.m. Saturday, July 18 (one minute after midnight Friday, July 17). This special season is for wingnets only and fishing will be allowed only on outgoing tides. Fishing during this special season is limited to the Calcasieu Ship Channel from Nine Mile Cut (Channel Marker 66) to the Gulf of Mexico and East Pass from its origin at the Calcasieu Ship Channel to the south end of Calcasieu Lake and also West Pass from its origin at the Calcasieu Ship Channel to the south end of West Cove.

The secretary finds that juvenile white shrimp have

begun recruiting to the inshore areas of Zone III and are present in both the department's fishery independent trawl samples and in the commercial catches in such numbers that the season closure is necessary. The special wingnet season is being held to harvest brown shrimp moving to the offshore waters. Strict enforcement of the aforementioned rules will serve to protect the small white shrimp moving inshore.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

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

Shrimp Season Closure, Zone II

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act and pursuant to R.S. 56:497 and the authority granted by the secretary of the Department of Wildlife and Fisheries by the Wildlife and Fisheries Commission on May 7, 1992, the secretary of the Department of Wildlife and Fisheries hereby finds that an imminent peril to the public welfare exists and accordingly adopts the following emergency rule:

The 1992 spring inshore shrimp season in Zone II, that portion of Louisiana's inshore waters from South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island will close at 12:01 a.m. Friday, July 3, 1992 (one minute after midnight, Thursday, July 2, 1992).

The secretary finds that juvenile white shrimp have begun recruiting to these inshore areas and are present in both the department's fishery independent trawl samples and in the commercial catches in such numbers that the season closure is necessary.

Joe L. Herring
Secretary

Rules

RULE

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

Quarantine Program

The Department of Agriculture and Forestry amends the Plant Quarantine Regulations, LAC 7:XV, Chapter 95, as follows:

Title 7
AGRICULTURE AND ANIMALS
Part XV. Plant Diseases

Chapter 95. Crop Pests and Diseases

Subchapter A. General Plant Quarantine Provisions

§9523. Host Materials

The following materials are declared to be host materials for the plant pests or diseases indicated:

Plant pest/disease	Host materials
A. Sweet potato weevil <i>Cylas formicarius</i> , <i>elegantulus</i> , (Sum.)	Dehydrated sweet potatoes; sweet potato roots, plants, vines or parts thereof; all other <i>Ipomoea</i> spp.; and containers used for transportation or storage of all such hosts
B. Pink bollworm <i>Pectinophora gossypiella</i> , (Saunders)	All parts of cotton and wild cotton plants of the genus <i>Gossypium</i> , seed cotton, cottonseed, cotton lint, cotton linters, okra, kanef, cotton waste, gin trash, cottonseed hulls, cottonseed cake, cottonseed meal, used bagging and other wrappers for cotton, used cotton harvesting equipment, used picking sacks and any other farm products, equipment, household goods, ginning and oil mill equipment, means of conveyance and any other articles which may serve as host materials
C. Phytophagus Snails <i>Helix aspersa</i> European Brown Garden Snail <i>Thebia pisana</i> White Garden Snail <i>Megalobulimus oblongus</i> Giant South American Snail <i>Otala lactea</i> Milk Snail <i>Achatina</i> spp. (e.g. Giant African Snail); and any other plant-feeding snail considered injurious to agriculture	Ornamental, horticultural and nursery stock
D. Leaf scald <i>Xanthomonas albilineans</i>	Sugar cane plants, stalks, cuttings and seed; maize
E. Lethal yellowing	<ol style="list-style-type: none"> 1. <i>Cocos nucifera</i> L. (Coconut palm) - all varieties, including Malayan dwarf 2. <i>Veitchia</i> spp. 3. <i>Pritchardia</i> spp. 4. <i>Arikuryroba schizophylla</i> (Mart.) Bailey (Arikury palm) 5. <i>Corypha elata</i> Roxb. (Buri palm, Gebang palm) 6. <i>Phoenix reclinata</i> Jacq. (Senegal date palm) 7. <i>Phoenix canariensis</i> Hort. ex Chab. (Canary Island date palm) 8. <i>Phoenix dactylifera</i> L. (Date palm) 9. <i>Phoenix sylvestris</i> (L.) Roxb. (Sylvester date palm) 10. <i>Trachycarpus fortunei</i> (Hook.) Wendl. (Chinese windmill palm)
F. Sweet potato mosaic	Sweet potato tubers, plants, vines, cuttings, draws and slips; morning glory plants
G. Tristeza, xyloporosis, psorosis, exocortis	Citrus nursery stock, scions and budwood
H. Burrowing nematode <i>Radopholus similis</i>	All plants with roots; all earth; all sand; and all parts of plants produced below soil level Exceptions: <ol style="list-style-type: none"> 1. aquatic plants if free from soil; 2. air plants, including certain orchids, grown in soil-free media; 3. air layered plants if roots are still established in the original soil-free moss wrappings; 4. dormant bulbs and corms if free from roots and soil; 5. fleshy, roots, corms, tubers and rhizomes for edible or medicinal purposes if washed or otherwise freed of soil; and 6. industrial sand and clay.
I. Oak wilt <i>Ceratocystis fagacearum</i>	Rooted trees, seedlings and/or propagative parts of oak (<i>Quercus</i> spp.), Chinese chestnuts (<i>Castanea mollissima</i>), tanoak (<i>Lithocarpus deniflorus</i>) and bush cinquapen (<i>Castanopsis sempervirens</i>), but not including seeds thereof
J. Phony peach	All peach, plum, apricot, nectarine and almond stock

11. *Hyophorbe (Mascarena) verschaffeltii* H. Wendl. (Spindle palm)
12. *Caryota mitis* Lour. (Cluster fish-tail palm)
13. *Borassus flabellifer* L. (Palmyra palm)
14. *Chrysalidocarpus cabadae* H.E. Moore (Cabada palm)
15. *Dictyosperma album* (Bory) H. Wendl. & Drude (Hurricane or princess palm)
16. *Aiphanes lindeniana* (H. Wendl.) H. Wendl.
17. *Allagoptera arenaria* (Gomes) Kuntze
18. *Arenga engleri* Becc.
19. *Ravenea hildebrandti* Wendl. ex Bouche
20. *Gaussia attenuata* (O. F. Cook) Beccari (Puerto Rican Gaussia)
21. *Howeia belmoreana* (C. Moore & F. Muell.) Becc. (Sentry palm)
22. *Latania* spp. (all species)
23. *Livistona chinensis* (N. J. Jacquin) R. Br. ex Mart. (Chinese fan palm)
24. *Nannorrhops ritchiana* (W. Griffith) J. E. T. Aitchison (Mazari palm)
25. *Neodypsis decaryi* Jumelle (Triangle palm)

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, LR 16:294 (April 1990); LR 18: (July 1992).

Subchapter B. Nursery Stock Quarantines

§9531. Phytophagous Snails

A. From Non-Infested States

Regulated material, including ornamental, horticultural and nursery stock, moved into or within Louisiana directly from any state not infested with European Brown Garden Snail or other Phytophagous Snails injurious to live plants, must be accompanied by a certificate of nursery inspection (tag).

B. From Infested States or Areas

Regulated material, including ornamental, horticultural and nursery stock, originating from any state or area of any state known to be infested with European Brown Snail or other Phytophagous Snails injurious to live plants, and moved into or within Louisiana must be accompanied by a certificate of nursery inspection (tag) and shall be certified snail-free in a manner approved by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

Subchapter C. Sweet Potato Weevil Quarantine

§9533. Applicability of General Quarantine Regulations

Sweet potato plants, plant products and parts thereof and host materials for the sweet potato weevil are subject to all pertinent provisions of the general quarantine regulations and to the regulations contained in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

§9535. Definitions Applicable to this Subchapter

A. Commercial kiln and storage houses - any buildings where sweet potatoes produced by different farmers or growers are assembled and stored.

B. Farm kiln or storage house - a building or enclosed structure located on a farm in which sweet potatoes grown solely on said farm are stored.

C. Non-sweet potato area - any area in which the planting, bedding, permitting to grow to maturity or storage of any material which acts as a host for the sweet potato weevil is prohibited.

D. Platform inspection - a visual examination by an inspector of sweet potatoes cleaned and packed/containerized prior to issuing a certificate permit.

E. Processing plants - canning, freezing and dehydrating plants.

F. Sweet potato dealer - a person engaged in the sale, offering for sale, movement or brokering of sweet potatoes, except as noted in LAC 7:XV.9547.C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

§9537. Issuance of Certificate Permits, Certificate Permit Tags, and Fumigation Certificates for the Movement of Restricted Material

A. From Sweet Potato Weevil-Free Areas

1. Green certificate permit tags will be issued to persons in that portion of the state designated by the department as sweet potato weevil-free who possess a valid sweet potato dealer's permit as required under the provisions of LAC 7:XV.9547 hereof, upon request to the state entomologist.

2. Certificate permits authorizing the movement of restricted material from the sweet potato weevil-free areas to points within and outside of Louisiana will be issued by the state entomologist under the following conditions.

a. The person desiring such movement has a valid sweet potato dealer's permit if required to possess such permit under the provisions of LAC 7:XV.9547 hereof.

b. A platform inspection of the restricted material indicates that the restricted material is free of the sweet potato weevil.

c. Green certificate permit tags are properly dated with the packing date and are attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such.

3. Dated green certificate permit tags shall not be reused and may be declared invalid 30 days following the packing date stamped on each tag.

4. Restricted material moving into that portion of Louisiana or any other state designated as sweet potato weevil-infested, unless moving under the provisions set forth in LAC 7:XV.9539.D.2.c hereof, shall not be moved back into any Louisiana sweet potato weevil-free area and shall lose its sweet potato weevil-free status.

B. From Sweet Potato Weevil-Infested Areas

1. Pink certificate permit tags will be issued to persons in that portion of the state designated by the department as sweet potato weevil-infested who possess a valid sweet potato dealer's permit as required under the provisions of LAC 7:XV.9547 hereof, upon request to the state entomologist.

2. Certificate permits authorizing the movement of restricted material from or within sweet potato weevil-infested areas will be issued by the state entomologist under the following conditions.

a. The person desiring such movement has a valid sweet potato dealer's permit if required to possess such permit under the provisions of LAC 7:XV.9547 hereof.

b. A platform inspection of the restricted material indicates that the restricted material is apparently free of the sweet potato weevil.

c. Pink certificate permit tags are properly dated with the packing date and are attached to or placed within each container in a load or shipment of sweet potatoes, if moved within Louisiana or to any other state which may require such.

d. The regulated material is not moved from a sweet potato weevil-infested area into a sweet potato weevil-free area, unless fumigated under the provisions set forth in LAC 7:XV.9538 hereof, or to any state which may prohibit entry of such restricted material.

e. The lot of sweet potatoes, if moving by truck to an area which permits entry of restricted material, is sealed in the truck body by the use of not more than two seals.

Tarpaulins or other means used to seal the truck body must be approved by the department in advance of moving sweet potatoes. No seal shall be broken until the truck reaches the destination shown in the certificate permit authorizing the movement of the sweet potatoes. If the truck load is comprised of mixed produce including one or more containers of sweet potatoes, the entire load of produce must be sealed in the truck before leaving the loading point; a certificate permit covering the sweet potatoes must be issued.

f. Certificate permits attesting to sweet potato fumigation and authorizing the movement of restricted material from sweet potato weevil-infested areas will be issued when such restricted material is inspected, found apparently free of the sweet potato weevil and fumigated under the provisions set forth in LAC 7:XV.9538 hereof.

3. Dated pink certificate permit tags shall not be re-used and may be declared invalid 30 days following the packing date stamped on each tag.

C. Provisions (A) and (B) of this Section do not apply to restricted materials originating from sweet potato weevil-infested properties, or properties within a one-mile radius thereof, located in that portion of the state designated by the department as sweet potato weevil-free.

D. No sweet potatoes may be moved or shipped within or out of Louisiana unless a valid certificate permit is issued for each shipment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, LR 14:527 (August 1988), LR 16:600 (July 1990), LR 18: (July 1992).

§9538. Fumigation and Maintenance of Weevil-free Status of Restricted Materials Originating in Quarantined Areas

A. Fumigation Measures

Persons operating storage houses and/or packing sheds who desire to move restricted materials outside of that portion of the state designated by the department as sweet potato weevil infested shall:

1. Fumigate only "quick cured" sweet potatoes.

a. Quick cured sweet potatoes must have been cured at approximately 85° F (29.5° C) and 85 percent relative humidity for five to seven days.

b. Only good quality sweet potatoes with a minimum of bruises or other skin damage shall be fumigated.

2. Enlist the services of a certified fumigator to perform the fumigation.

3. Possess a valid fumigation certificate issued by a certified fumigator, indicating that sweet potato fumigation was done in accordance with all fumigant label requirements and in a manner approved by the department. Each fumigation certificate shall state the conditions and dates of fumigation.

4. Fumigate with hydrogen phosphide or any other fumigant approved for use on sweet potatoes and formulated and used in a manner approved by the department. If hydrogen phosphide is used, the fumigant concentration shall be maintained at a minimum of 200 ppm for five days.

B. Maintenance of Weevil-free Status

Restricted materials shall be maintained in such a manner that the integrity of their weevil-free status following fumigation is retained.

1. Fumigation chamber - Fumigated sweet potatoes may be stored in a fumigation chamber approved by the department, designed specifically for fumigating and storing sweet potatoes. The chamber shall be airtight with a self-contained, screened exhaust system in place; shall possess doors that seal; shall contain a minimum of 1000 cubic feet of space, and larger chambers must be designed to contain an even multiple of 1000 cubic feet; shall be cleaned of all sweet potatoes, parts, and any other restricted materials between periods of fumigation and storage.

2. Tractor trailer rigs designed and constructed for use in fumigations may be used in place of a fumigation chamber provided the truck body meets the fumigation chamber requirements outlined above, with the exception of the cubic feet requirement. A variation in truck body cubic feet shall be allowed provided the variation allows adequate volume to fumigate according to the fumigant label. All entrances or openings on the truck body shall be sealed in a manner approved by the department, prior to shipment, by the use of not more than two seals.

3. If an approved fumigation chamber is not available, fumigation and storage of restricted materials shall:

a. be in a storage area separate from and in no way connected to any other storage or packing areas containing non-fumigated restricted materials. Storage area must be cleaned of all sweet potatoes, parts, and any other restricted materials between periods of storage;

b. be in a storage area that has been treated with an appropriately labeled chemical and in a manner approved by the department prior to initial storage of sweet potatoes harvested and fumigated that season; and must not be used to store any non-fumigated restricted materials;

c. fumigation shall be accomplished by tenting the restricted material with a sealed tarpaulin or other suitable sealable material of adequate thickness and construction for use in fumigation with hydrogen phosphide or other commercial fumigants;

d. restricted materials shall be completely enclosed with nylon, fiberglass, plastic or other synthetic screen material prior to, during and following fumigation. The screen mesh must be of a size sufficient to prevent entry of sweet potato weevil and shall be free from tears, rips and holes.

4. Packing house or shed - Sweet potatoes fumigated, screened, and stored according to Paragraphs (A)(1-4) and (B)(1-3d) above may be washed and packed in the same packing house or shed as non-fumigated sweet potatoes, provided.

a. Packing house or shed and all packing equipment is cleaned of all sweet potatoes, parts, and any other restricted materials prior to washing and packing of fumigated sweet potatoes.

b. Packing house or shed is treated with an appropriately labeled chemical and in a manner approved by the department prior to each packing period involving fumigated sweet potatoes.

5. All packing boxes and other packing and shipping materials shall be held in a storage area separate from and in no way connected to any other non-fumigated materials, or be fumigated and stored according to Paragraphs (A)(1-4) and (B)(1-3d) above.

6. Fumigated sweet potatoes washed and packed under approved conditions must be shipped within seven days of packing. Washed and packed sweet potatoes shall be

completely enclosed with nylon, fiberglass, plastic or other synthetic screen material immediately following packing and must remain enclosed until shipment. The screen mesh must be of a size sufficient to prevent entry of sweet potato weevil and shall be free from tears, rips and holes. Fumigated, screened sweet potatoes awaiting shipment shall be labeled with the dates of fumigation.

7. Trucks or other vehicles used to ship fumigated sweet potatoes from quarantined areas shall be cleaned of all sweet potatoes, parts, and any other restricted materials prior to hauling fumigated sweet potatoes. Vehicle compartments previously containing shipments of non-fumigated restricted materials that were moved from or within quarantined areas must be treated with an appropriately labeled chemical and in a manner approved by the department prior to loading fumigated sweet potatoes for shipment. No non-fumigated sweet potatoes shall be loaded or shipped with fumigated sweet potatoes.

C. Issuance of Certificate Permit Tags

Manila certificate permit tags will be issued by the department to persons meeting all sweet potato quarantine regulation requirements and desiring to ship restricted materials that have been properly fumigated from quarantined areas to pest free areas or to states that may prohibit entry of such restricted materials. Permit tags shall be properly dated and attached to or within each container in a load or shipment of fumigated sweet potatoes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 16:600 (July 1990), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

§9539. Effect of Quarantine for Sweet Potato Weevil

A. Sweet Potato Weevil-Free Areas of Louisiana

1. The growing and/or storing of restricted material, including seed beds and field plantings of sweet potatoes, or allowing restricted material to grow to maturity, is prohibited in areas declared to be non-sweet potato areas, except under special permit issued by the state entomologist. Non-sweet potato areas include but are not limited to sweet potato weevil-infested properties, and properties within a one-mile radius thereof, located in that portion of the state designated by the department as sweet potato weevil-free.

2. Any restricted material found in non-sweet potato areas shall be disposed of in a manner approved by the state entomologist.

B. Sweet Potato Weevil-Infested Areas of Louisiana

Owners and/or persons in charge of properties supporting active infestations of sweet potato weevil within that portion of the state designated as sweet potato weevil-infested may save their own seed sweet potatoes, provided that:

1. such seed sweet potatoes are apparently free of the sweet potato weevil;
2. such seed sweet potatoes are properly treated in a manner approved by the state entomologist at the time of storage;
3. no seed sweet potatoes, plants, vines and/or cuttings shall be sold, offered for sale or moved except those which have been inspected by the department and found to be apparently free of the sweet potato weevil.

C. Statewide

1. Sweet potatoes in seed beds shall be destroyed

within 15 days after such potatoes have served their purpose, and not later than July 15 of each year. Destruction shall be in such a manner that all sweet potatoes, plants and parts are brought to the soil surface and exposed.

2. All sweet potato fields shall be harvested by December 1 of each year by the owner and/or tenant or renter. Such fields shall be destroyed within 15 days after harvesting, or by December 15 of each year. Destruction shall be in such a manner that all remaining sweet potatoes, plants and parts are brought to the soil surface and exposed.

3. Sanitary Measures

Persons operating packing sheds, assembly points, processing plants and/or storage houses shall:

a. not permit loose sweet potatoes or parts of sweet potatoes to accumulate in or around any structure in which sweet potatoes are cleaned, packed, processed or stored;

b. render waste sweet potatoes and sweet potato parts unsuitable for or unavailable to the sweet potato weevil by processing or disposal in a manner approved by the state entomologist. If it is necessary to haul host material from the place of accumulation for processing or disposal, such hauling shall be done in an approved tight-body truck or container and covered with a tarpaulin when necessary;

c. not allow sweet potatoes, sweet potato crowns and roots or parts thereof to be carried away from storage houses, processing plants, packing sheds or assembly points in water used in washing sweet potatoes;

d. not permit the sale, offer for sale or movement to any person or farm of culled sweet potatoes or sweet potato parts, except under special permit issued by the state entomologist; and

e. not move empty containers or equipment used in the handling of sweet potatoes from packing sheds or processing plants unless cleaned free of all host materials.

D. Restricted Material From Other States

1. Sweet potatoes, sweet potato plants, plant products and parts thereof, host materials, and containers and equipment used in handling sweet potatoes may not enter Louisiana unless accompanied by a valid certificate permit from the state of origin.

2. A valid state-of-origin certificate permit tag shall be attached to or placed within each container in a load of sweet potatoes entering Louisiana.

a. Only restricted material certified as grown, stored and inspected in a portion of the state of origin designated as sweet potato weevil-free, or fumigated in accordance with LAC 7:XV.9538 hereof, shall enter that portion of Louisiana designated sweet potato weevil-free unless moving under the provisions set forth in LAC 7:XV.9538(D)2(c) hereof.

b. Restricted material grown, stored or inspected in a portion of the state of origin designated sweet potato weevil-infested or sweet potato weevil regulated, and inspected and found apparently free of sweet potato weevil, shall enter only that portion of Louisiana designated sweet potato weevil-infested unless moving under the provisions set forth in LAC 7:XV.9539(D)2(c) hereof.

c. Movement of restricted material from sweet potato weevil-infested or sweet potato weevil regulated areas through that portion of Louisiana designated sweet potato weevil-free is prohibited, except when moved by common carrier with a through bill of lading; or, if moved by truck or any other conveyance, said conveyance shall be sealed by the state of origin, shall have no additional restricted material

added to the shipment, and shall not be unloaded within the weevil-free area of Louisiana.

d. Restricted material originating in areas designated sweet potato weevil-free that is moved into any area designated sweet potato weevil-infested or sweet potato weevil regulated, except under the provisions of LAC 7:XV.9539(D)2(c) hereof, shall not be moved back into any sweet potato weevil-free area and shall lose its sweet potato weevil-free status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

§9541. Handling, Storage and Processing of Sweet Potatoes Within That Portion of the State Designated Sweet Potato Weevil-Infested

A. Sweet Potatoes Treated with Approved Chemicals

There shall be no date limit on the shipment of sweet potatoes from that portion of the state designated sweet potato weevil-infested, provided:

1. sweet potatoes to be marketed after April 1 following the year of production must be treated before February 28 with a chemical or chemicals labeled for sweet potato use and approved by the department; and

2. sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the state entomologist as soon as possible after final disposal of a crop of sweet potatoes.

B. Sweet Potatoes Not Treated with Approved Chemicals and/or Heavily Infested with Sweet Potato Weevil

1. Unprocessed sweet potatoes shall not be held in processing plants, warehouses or other storage houses on properties supporting active infestations of sweet potato weevils; moved in any manner; or sold or offered for sale after April 1 following the year of production, except seed sweet potatoes that are apparently free of sweet potato weevils and have been properly treated as prescribed in LAC 7:XV.9541(A). This provision shall apply to all sweet potatoes even though previously inspected and certified for sale and movement. Sweet potato packing sheds, processing plants and/or storage houses, and all containers and equipment used in handling sweet potatoes must be cleaned and treated in a manner prescribed by the state entomologist unless a special permit extending the deadline is issued by the state entomologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

§9543. Fees

A. A fee of four cents per bushel shall be charged for each bushel of sweet potatoes moved and/or shipped within or out of Louisiana.

B. The fee charged for sweet potatoes moving to processing plants shall be collected on the basis of the amount of purchase less 10 percent for breakdown and shrinkage while in storage.

C. A fee of five cents per thousand shall be charged for vines, plants, slips or cuttings moved and/or shipped within or out of Louisiana.

D. Time when fees are to be assessed.

1. *Fresh Market* -assessed at the time a certificate permit is issued to authorize sale, offer for sale, movement, or shipment of the sweet potatoes.

2. *Processing Plants* - assessed at the time the sweet potatoes are moved into a plant for processing and/or packed to be shipped as nonprocessed potatoes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655, R.S. 3:1732 and R.S. 3:1734.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:321 (April 1985), amended by the Department of Agriculture and Forestry, LR 15:77 (February 1989), LR 18: (July 1992).

§9545. Penalties for Violation of Sweet Potato Weevil Quarantine

A. Any person violating any portion of the sweet potato weevil quarantine may be called to an adjudicatory hearing held in accordance with the Administrative Procedure Act and may be subject to a civil penalty of not more than \$5,000 per each violation per day. Proportionate costs of the hearing may be assessed against the violator. The amount of these costs shall be limited to attorneys' fees as charged to the Department for the actual hearing and preparation for the hearing; and actual cost of departmental personnel time in processing violations.

B. A sweet potato dealer's permit may be suspended, revoked or placed on probation if the holder thereof fails to comply with the provisions of these regulations subject to a finding in support of such action in a properly conducted adjudicatory hearing.

C. Sweet potato plantings found in a non-sweet potato area will be destroyed at the expense of the person or persons responsible for the plantings.

D. Regulated material found in violation of these regulations shall be destroyed and/or disposed of in a manner approved by the state entomologist at the expense of the person or persons responsible for the restricted material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1655 and R.S. 3:1732.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

§9547. Sweet Potato Dealer's Permit

A. All persons, including sweet potato growers and/or farmers, selling or offering for sale sweet potatoes shall not move, clean, grade, pack or repack for sale, or process in any manner sweet potatoes without a valid Sweet Potato Dealer's Permit. Sweet potatoes that are moved, cleaned, graded, packed or repacked for sale and/or processed, and that are sold or offered for sale shall be inspected under the provisions of LAC 7:XV.9537 hereof.

B. Applicants for Sweet Potato Dealer's Certificate Permit shall

1. Complete and file the application required by the department, which shall set forth the following conditions:

a. a guarantee to reimburse any purchase price of sweet potatoes which are confiscated because of sweet potato weevil infestation or unauthorized sale, offer for sale and/or movement;

b. an agreement to permit, at the dealer's cost, the destruction by an inspector of the department or the return to point of origin of any sweet potatoes sold, offered for sale, moved or moving without authorization, or infested with

sweet potato weevil.

C. The provisions of this Section do not apply to:

1. Retail grocers and other retail outlets selling or offering for sale sweet potatoes possessing a valid certificate permit and/or certificate permit tags indicating that the sweet potatoes have been inspected, and that are sold or offered for sale directly to the consumer from a permanent building at a permanent location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1653, R.S. 3:1655, R.S. 3:1732 and R.S. 3:1735.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, LR 11:322 (April 1985), amended by the Department of Agriculture and Forestry, LR 18: (July 1992).

Bob Odom
Commissioner

RULE

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

Fee System of the Air Quality Control Program (AQ59)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Regulations, LAC 33:III.Chapter 65, (AQ59).

This rule will increase fees in order to generate additional operating funds that are needed to replace requested general funds and to provide resources for expanded programs mandated by the Clean Air Act Amendments of 1990.

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

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

* * *

§6511. Methodology

A. Formula to Apportion Fees:

* * *

Delete the following:

Research fee for alternate disposal of hazardous waste	Surcharge of 6.1% of the annual maintenance fee for those facilities that generate hazardous waste
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* * *

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 14:610 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality

Division, LR 17:1205 (December 20, 1991), LR 18: (July 1992).

§6515. Method of Payment

All fee payments shall be made by check, draft or money order payable to the Department of Environmental Quality, and mailed to the address provided on the invoice. Unless otherwise provided herein, all invoices will have a due date that is 30 days from the date of the receipt.

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 14:610 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18: (July 1992).

§6517. Late Payment

Fees not received within 15 days of the due date, will be subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:610 (September 1988), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 18: (July 1992).

§6523. Fee Schedule Listing

* * *

FEE NUMBER	FEE DESCRIPTION	AMOUNT
2300*Note 14	Criteria pollutant annual fee per ton emitted on an annual basis: Nitrogen Oxides (NO _x) Sulfur dioxide (SO ₂) Non-toxic organic (VOC) Particulate (PM ₁₀)	\$7/ton

* * *

NOTE 14 -Fees will not be assessed for emissions of a single criteria pollutant over and above 4,000 tons per year from a facility. Criteria fees will be assessed on actual annual emissions which occurred during the previous 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 13:741 (December 1987), amended LR 14:610 (September 1988), LR 15:735 (September 1989), LR 17:1205 (December 1991), LR 18: (July 1992).

James B. Thompson, III
Assistant Secretary

RULE

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

**Polychlorinated Dibenzo-p-dioxins and Polychlorinated
Dibenzofurans from Stationary Sources (AQ56)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Air Quality Regulations, LAC 33:III.6081, (AQ56).

These regulations will provide an analytical method for determining the polychlorinated dibenzo-p-dioxins and polychlorinated dibenzofurans in effluent streams to the air from stationary sources.

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

**Chapter 60. Division's Source Test Manual
§6081. Method 23—Determination of Polychlorinated
Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans from
Stationary Sources**

A. Applicability and Principle

1. Applicability. This method is applicable to the determination of polychlorinated dibenzo-p-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) from stationary sources.

2. Principle. A sample is withdrawn from the gas stream isokinetically and collected in the sample probe, on a glass fiber filter, and on a packed column of adsorbent material. The sample cannot be separated into a particle vapor fraction. The PCDDs and PCDFs are extracted from the sample, separated by high resolution gas chromatography, and measured by high resolution mass spectrometry.

B. Apparatus

1. Sampling. A schematic of the sampling train used in this method is shown in Figure 23.1. Sealing greases may not be used in assembling the train. The train is identical to that described in LAC 33:III.6015.B.1 with the following additions:

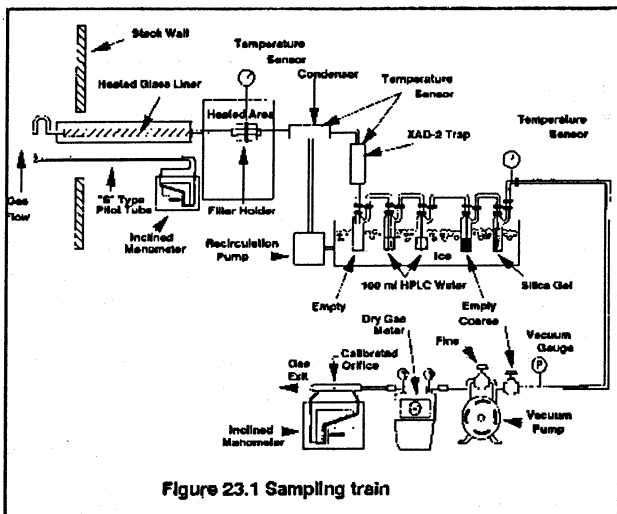


Figure 23.1 Sampling train

a. Nozzle. The nozzle shall be made of nickel, nickel-plated stainless steel, quartz, or borosilicate glass.

b. Sample transfer lines. The sample transfer lines, if needed, shall be heat traced, heavy walled TFE (1/2 in. OD with 1/8 in. wall) with connecting fittings that are capable of forming leak-free, vacuum-tight connections without using sealing greases. The line shall be as short as possible and must be maintained at 120°C.

c. Filter support. Teflon or teflon-coated wire.

d. Condenser. Glass, coil type with compatible fittings. A schematic diagram is shown in Figure 23.2.

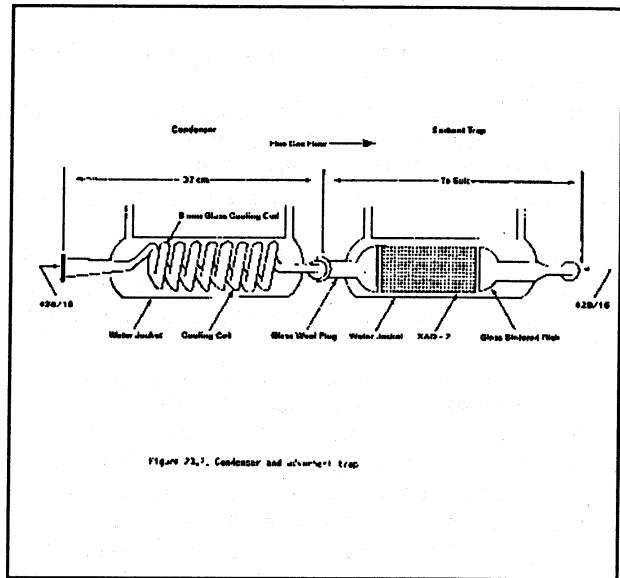


Figure 23.2. Condenser and adsorbent trap

e. Water bath. Thermostatically controlled to maintain the gas temperature exiting the condenser at <20°C (68 °F).

f. Adsorbent module. Glass container to hold the solid adsorbent. A schematic diagram is shown in Figure 23.2. Other physical configurations of the resin trap/condenser assembly are acceptable. The connecting fittings shall form leak-free, vacuum-tight seals. No sealant greases shall be used in the sampling train. A coarse glass frit is included to retain the adsorbent.

2. Sample recovery.

a. Fitting caps. Ground glass, teflon tape, or aluminum foil (Subsection B.2.f of this Section) to cap off the sample exposed sections of the train.

b. Wash bottles. Teflon, 500-ml.

c. Probe-liner probe-nozzle, and filter holder-brushes. Inert bristle brushes with precleaned stainless steel or teflon handles. The probe brush shall have extensions of stainless steel or teflon, at least as long as the probe. The brushes shall be properly sized and shaped to brush out the nozzle, probe liner, and transfer line, if used.

d. Filter storage container. Sealed filter holder, wide-mouth amber glass jar with teflon-lined cap, or glass petri dish.

e. Balance. Triple beam.

f. Aluminum foil. Heavy duty, hexane-rinsed.

g. Metal storage container. Air tight container to store silica gel.

h. Graduated cylinder. Glass, 250-ml with 2-ml graduation.

i. Glass sample storage container. Amber glass bottle for sample glassware washes, 500- or 1000-ml, with leak

free teflon-lined caps.

3. Analysis.

a. Sample container. 125- and 250-ml flint glass bottles with teflon-lined caps.

b. Test tube. Glass.

c. Soxhlet extraction apparatus. Capable of holding 43 x 123 mm extraction thimbles.

d. Extraction thimble. Glass precleaned cellulosic, or glass fiber.

e. Pasteur pipettes. For preparing liquid chromatographic columns.

f. Reacti-vials. Amber glass, 2-ml, silanized prior to use.

g. Rotary evaporator. Buchi/Brinkman RF-121 or equivalent.

h. Nitrogen evaporative concentrator. N-Evap Analytical Evaporator Model III or equivalent.

i. Separatory funnels. Glass, 2-liter.

j. Gas chromatograph. Consisting of the following components:

i. Oven. Capable of maintaining the separation column at the proper operating temperature $\pm 1^\circ\text{C}$ and performing programmed increases in temperature at rates of at least $40^\circ\text{C}/\text{min}$.

ii. Temperature gauge. To monitor column oven, detector, and exhaust temperatures $\pm 1^\circ\text{C}$.

iii. Flow system. Gas metering system to measure sample, fuel, combustion gas, and carrier gas flows.

iv. Capillary columns. A fused silica column, 60×0.25 mm inside diameter (ID), coated with DB-5 and a fused silica column, $30 \text{ m} \times 0.25$ mm ID coated with DB-225. Other column systems may be used provided that the user is able to demonstrate using calibration and performance checks that the column system is able to meet the specifications of Subsection F.1.b.ii of this Section.

k. Mass spectrometer. Capable of routine operation at

a resolution of 1:10000 with a stability of ± 5 ppm.

l. Data system. Compatible with the mass spectrometer and capable of monitoring at least five groups of 25 ions.

m. Analytical balance. To measure within 0.1 mg.

C. Reagents

1. Sampling

a. Filters. Glass fiber filters, without organic binder, exhibiting at least 99.95 percent efficiency (<0.05 percent penetration) on 0.3-micron dioctyl phthalate smoke particles. The filter efficiency test shall be conducted in accordance with ASTM Standard Method D 2986-71 (Reapproved 1978) (incorporated by reference-see LAC 33:III.3133).

i. Precleaning. All filters shall be cleaned before their initial use. Place a glass extraction thimble and 1 g of silica gel and a plug of glass wool in a Soxhlet apparatus, charge the apparatus with toluene, and reflux for a minimum of three hours. Remove the toluene and discard it, but retain the silica gel. Place no more than 50 filters in the thimble onto the silica gel bed and top with the cleaned glass wool. Charge the Soxhlet with toluene and reflux for 16 hours. After extraction, allow the Soxhlet to cool, remove the filters, and dry them under a clean N_2 stream. Store the filters in a glass petri dish sealed with teflon tape.

b. Adsorbent resin. Amberlite XAD-2 resin. Thoroughly cleaned before initial use.

i. Cleaning procedure. This procedure may be carried out in a giant Soxhlet extractor. An all-glass filter thimble containing an extra-course frit is used for extraction of XAD-2. The frit is recessed 10-15 mm above a crenelated ring at the bottom of the thimble to facilitate drainage. The resin must be carefully retained in the extractor cup with a glass wool plug and a stainless steel ring because it floats on methylene chloride. This process involves sequential extraction in the following order:

Solvent	Procedure
Water	Initial rinse: Place resin in a beaker, rinse once with water, and discard. Fill with water a second time, let stand overnight, and discard.
Water	Extract with water for eight hours.
Methanol	Extract for 22 hours.
Methylene Chloride	Extract for 22 hours.
Toluene	Extract for 22 hours.

ii. Drying

(a). Drying column. Pyrex pipe, 10.2 cm ID by 0.6 m long, with suitable retainers.

(b). Procedure. The adsorbent must be dried with clean inert gas. Liquid nitrogen from a standard commercial liquid nitrogen cylinder has proven to be a reliable source of large volumes of gas free from organic contaminants. Connect the liquid nitrogen cylinder to the column by a length of cleaned copper tubing, 0.95 cm ID, coiled to pass through a heat source. A convenient heat source is a water-bath heated from a steam line. The final nitrogen temperature should only

be warm to the touch and not over 40°C . Continue flowing nitrogen through the adsorbent until all the residual solvent is removed. The flow rate should be sufficient to gently agitate the particles but not so excessive as to cause the particles to fracture.

iii. Quality control check. The adsorbent must be checked for residual toluene.

(a). Extraction. Weigh 1.0 g sample of dried resin into a small vial, add 3 ml of toluene, cap the vial, and shake it well.

(b). Analysis. Inject a $2 \mu\text{l}$ sample of the extract into

a gas chromatograph operated under the following conditions:

Column: 6 ft × 1/8 in stainless steel containing 10 percent OV-101 on 100/120 Supelcoport.

Carrier Gas: Helium at a rate of 30 ml/min.

Detector: Flame ionization detector operated at a sensitivity of 4×10^{-11} A/mV.

Injection Port Temperature: 250°C.

Detector Temperature: 305°C.

Oven Temperature: 30°C for 4 min; programmed to rise at 40°C/min until it reaches 250°C; return to 30°C after 17 minutes.

Compare the results of the analysis to the results from the reference solution. Prepare the reference solution by injecting 2.5 µl of methylene chloride into 100 ml of toluene. This corresponds to 100 µg of methylene chloride per g of adsorbent. The maximum acceptable concentration is 1000 µg/g of adsorbent. If the adsorbent exceeds this level, drying must be continued until the excess methylene chloride is removed.

iv. Storage. The adsorbent must be used within four weeks of cleaning. After cleaning, it may be stored in a wide mouth amber glass container with a teflon-lined cap or placed in one of the glass adsorbent modules tightly sealed with glass stoppers. If precleaned adsorbent is purchased in sealed containers, it must be used within four weeks after the seal is broken.

c. Glass wool. Cleaned by sequential immersion in three aliquots of methylene chloride, dried in a 110°C oven, and stored in a methylene chloride-washed glass jar with a teflon-lined screw cap.

d. Water. Deionized distilled and stored in a methylene chloride-rinsed glass container with a teflon-lined screw cap.

e. Silica gel. Indicating type, 6 to 16 mesh. If previously used, dry at 175°C (350°F) for two hours. New silica gel may be used as received. Alternately other types of desiccants (equivalent or better) may be used, subject to the approval of the administrative authority.

f. Chromic acid cleaning solution. Dissolve 20 g of sodium dichromate in 15 ml of water, and then carefully add 400 ml of concentrated sulfuric acid.

2. Sample recovery

a. Acetone. Pesticide quality.

b. Methylene chloride. Pesticide quality.

c. Toluene. Pesticide quality.

3. Analysis

a. Potassium hydroxide. ACS grade, two percent (weight/volume) in water.

b. Sodium sulfate. Granulated, reagent grade. Purify prior to use by rinsing with methylene chloride and oven drying. Store the cleaned material in a glass container with a teflon-lined screw cap.

c. Sulfuric acid. Reagent grade.

d. Sodium hydroxide. 1.0 N. Weigh 40 g of sodium hydroxide into a one-liter volumetric flask. Dilute to one liter with water.

e. Hexane. Pesticide grade.

f. Methylene chloride. Pesticide grade.

g. Benzene. Pesticide grade.

h. Ethyl acetate.

i. Methanol. Pesticide grade.

j. Toluene. Pesticide grade.

k. Nonane. Pesticide grade.

l. Cyclohexane. Pesticide grade.

m. Basic alumina. Activity grade 1, 100-200 mesh. Prior to use, activate the alumina by heating for 16 hours at 130°C before use. Store in a desiccator. Pre-activated alumina may be purchased from a supplier and may be used as received.

n. Silica gel. Bio-Sil A, 100-200 mesh. Prior to use, activate the silica gel by heating for at least 30 minutes at 180°C. After cooling, rinse the silica gel sequentially with methanol and methylene chloride. Heat the rinsed silica gel at 50°C for 10 minutes, then increase the temperature gradually to 180°C over 25 minutes and maintain it at this temperature for 90 minutes. Cool at room temperature and store in a glass container with a teflon-lined screw cap.

o. Silica gel impregnated with sulfuric acid. Combine 100 g of silica gel with 44 g of concentrated sulfuric acid in a screw capped glass bottle and agitate thoroughly. Disperse the solids with a stirring rod until a uniform mixture is obtained. Store the mixture in a glass container with a teflon-lined screw cap.

p. Silica gel impregnated with sodium hydroxide. Combine 39 g of 1 N sodium hydroxide with 100 g of silica gel in a screw capped glass bottle and agitate thoroughly. Disperse solids with a stirring rod until a uniform mixture is obtained. Store the mixture in a glass container with a teflon-lined screw cap.

q. Carbon/celite. Combine 10.7 g of AX-21 carbon with 124 g of Celite 545 in a 250-ml glass bottle with a teflon-lined screw cap. Agitate the mixture thoroughly until a uniform mixture is obtained. Store in the glass container.

r. Nitrogen. Ultra high purity.

s. Hydrogen. Ultra high purity.

t. Internal standard solution. Prepare a stock standard solution containing the isotopically labelled PCDDs and PCDFs at the concentrations shown in Table 1 under the heading "Internal Standards" in 10 ml of nonane.

u. Surrogate standard solution. Prepare a stock standard solution containing the isotopically labelled PCDDs and PCDFs at the concentrations shown in Table 1 under the heading "Surrogate Standards" in 10 ml of nonane.

v. Recovery standard solution. Prepare a stock standard solution containing the isotopically labelled PCDDs and PCDFs at the concentrations shown in Table 1 under the heading "Recovery Standards" in 10 ml of nonane.

D. Procedure

1. Sampling. The complexity of this method is such that, in order to obtain reliable results, testers should be trained and experienced with the test procedures.

a. Pretest preparation

i. Cleaning glassware. All glass components of the train upstream of and including the adsorbent module, shall be cleaned as described in section 3A of the "Manual of Analytical Methods for the Analysis of Pesticides in Human and Environmental Samples." Special care shall be devoted to the removal of residual silicone grease sealants on ground glass connections of used glassware. Any residue shall be removed by soaking the glassware for several hours in a chromic acid cleaning solution prior to cleaning as described above.

ii. Adsorbent trap. The traps must be loaded in a clean area to avoid contamination. They may not be loaded in the field. Fill a trap with 20 to 40 g of XAD-2. Follow the XAD-2 with glass wool and tightly cap both ends of the trap. Add 100 µl of the surrogate standard solution (Subsection C.3.u

of this Section) to each trap.

iii. Sample train. It is suggested that all components be maintained according to the procedure described in APTD-0576.

iv. Silica gel. Weigh several 200 to 300 g portions of silica gel in an air tight container to the nearest 0.5 g. Record the total weight of the silica gel plus container, on each container. As an alternative, the silica gel may be weighed directly in its impinger or sampling holder just prior to sampling.

v. Filter. Check each filter against light for irregularities and flaws or pinhole leaks. Pack the filters flat in a clean glass container.

b. Preliminary determinations. Same as LAC 33:III.6015.D.1.b.

c. Preparation of collection train.

i. During preparation and assembly of the sampling train, keep all train openings where contamination can enter, sealed until just prior to assembly or until sampling is about to begin.

NOTE: Do not use sealant grease in assembling the train.

ii. Place approximately 100 ml of water in the second and third impingers, leave the first and fourth impingers empty, and transfer approximately 200 to 300 g of preweighed silica gel from its container to the fifth impinger.

iii. Place the silica gel container in a clean place for later use in the sample recovery. Alternatively, the weight of the silica gel plus impinger may be determined to the nearest 0.5 g and recorded.

iv. Assemble the train as shown in Figure 23.1.

v. Turn on the adsorbent module and condenser coil recirculating pump and begin monitoring the adsorbent module gas entry temperature. Ensure proper sorbent temperature gas entry temperature before proceeding and before sampling is initiated. It is extremely important that the XAD-2 adsorbent resin temperature never exceed 50°C because thermal decomposition will occur. During testing, the XAD-2 temperature must not exceed 20°C for efficient capture of the PCDDs and PCDFs.

d. Leak-check procedure. Same as LAC 33:III.6015.D.1.d.

e. Sample train operation. Same as LAC33:III.6015.D.1.e.

2. Sample recovery. Proper cleanup procedure begins as soon as the probe is removed from the stack at the end of the sampling period. Seal the nozzle end of the sampling probe with teflon tape or aluminum foil. When the probe can be safely handled, wipe off all external particulate matter near the tip of the probe. Remove the probe from the train and close off both ends with aluminum foil. Seal off the inlet to the train with teflon tape, a ground glass cap, or aluminum foil. Transfer the probe and impinger assembly to the cleanup area. This area shall be clean and enclosed so that the chances of losing or contaminating the sample are minimized. Smoking, which could contaminate the sample, shall not be allowed in the cleanup area. Inspect the train prior to and during disassembly and note any abnormal conditions, e.g., broken filters, colored impinger liquid, etc. Treat the samples as follows:

a. Container No. 1. Either seal the filter holder or carefully remove the filter from the filter holder and place it in its identified container. Use a pair of cleaned tweezers to

handle the filter. If it is necessary to fold the filter, do so such that the particulate cake is inside the fold. Carefully transfer to the container any particulate matter and filter fibers which adhere to the filter holder gasket, by using a dry inert bristle brush and a sharp-edged blade. Seal the container.

b. Adsorbent module. Remove the module from the train, tightly cap both ends, label it, cover with aluminum foil, and store it on ice for transport to the laboratory.

c. Container No. 2. Quantitatively recover material deposited in the nozzle, probe transfer lines, the front half of the filter holder, and the cyclone, if used, first by brushing while rinsing three times each with acetone and then, by rinsing the probe three times with methylene chloride. Collect all the rinses in Container No. 2. Rinse the back half of the filter holder three times with acetone. Rinse the connecting line between the filter and the condenser three times with acetone. Soak the connecting line with three separate portions of methylene chloride for five minutes each. If using a separate condenser and adsorbent trap, rinse the condenser in the same manner as the connecting line. Collect all the rinses in Container No. 2 and mark the level of the liquid on the container.

d. Container No. 3. Repeat the methylene chloride-rinsing described in Subsection D.2.c of this Section using toluene as the rinse solvent. Collect the rinses in Container No. 3 and mark the level of the liquid on the container.

e. Impinger water. Measure the liquid in the first three impingers to within ± 1 ml by using a graduated cylinder or by weighing it to within ± 0.5 g by using a balance. Record the volume or weight of liquid present. This information is required to calculate the moisture content of the effluent gas. Discard the liquid after measuring and recording the volume or weight.

f. Silica gel. Note the color of the indicating silica gel to determine if it has been completely spent and make a mention of its condition. Transfer the silica gel from the fifth impinger to its original container and seal.

E. Analysis

All glassware shall be cleaned as described in section 3A of the "Manual of Analytical Methods for the Analysis of Pesticides in Human and Environmental Samples." All samples must be extracted within 30 days of collection and analyzed within 45 days of extraction.

1. Sample extraction

a. Extraction system. Place an extraction thimble (Subsection B.3.d of this Section), 1 g of silica gel, and a plug of glass wool into the Soxhlet apparatus, charge the apparatus with toluene, and reflux for a minimum of three hours. Remove the toluene and discard it, but retain the silica gel. Remove the extraction thimble from the extraction system and place it in a glass beaker to catch the solvent rinses.

b. Container No. 1 (filter). Transfer the contents directly to the glass thimble of the extraction system and extract them simultaneously with the XAD-2 resin.

c. Adsorbent cartridge. Suspend the adsorbent module directly over the extraction thimble in the beaker (See Subsection E.1.a of this Section). The glass frit of the module should be in the up position. Using a teflon squeeze bottle containing toluene, flush the XAD-2 into the thimble onto the bed of cleaned silica gel. Thoroughly rinse the glass module catching the rinsings in the beaker containing the

thimble. If the resin is wet, effective extraction can be accomplished by loosely packing the resin in the thimble. Add the XAD-2 glass wool plug into the thimble.

d. Container No. 2 (Acetone and Methylene Chloride). Concentrate the sample to a volume of about 1-5 ml using the rotary evaporator apparatus, at a temperature of less than 37°C. Rinse the sample container three times with small portions of methylene chloride and add these to the concentrated solution and concentrate further to near dryness. This residue contains particulate matter removed in the rinse of the train probe and nozzle. Add the concentrate to the filter and the XAD-2 resin in the Soxhlet apparatus described in Subsection E.1.a of this Section.

e. Extraction. Add 100 µl of the internal standard solution (Subsection C.3.t of this Section) to the extraction thimble containing the contents of the adsorbent cartridge, the contents of Container No. 1 and the concentrate from Subsection E.1.d of this Section. Cover the contents of the extraction thimble with the cleaned glass wool plug to prevent the XAD-2 resin from floating into the solvent reservoir of the extractor. Place the thimble in the extractor, and add the toluene contained in the beaker to the solvent reservoir. Pour additional toluene to fill the reservoir approximately 2/3 full. Add teflon boiling chips and assemble the apparatus. Adjust the heat source to cause the extractor to cycle three times per hour. Extract the sample for 16 hours. After extraction, allow the Soxhlet to cool. Transfer the toluene extract and three 10-ml rinses to the rotary evaporator. Concentrate the extract to approximately 10 ml. At this point the analyst may choose to split the sample in half. If so, split the sample, store one half for future use, and analyze the other according to the procedures in Subsection E.2 and 3 of this Section. In either case, use a nitrogen evaporative concentrator to reduce the volume of the sample being analyzed to near dryness. Dissolve the residue in 5 ml of hexane.

f. Container No. 3 (Toluene Rinse). Add 100 µl of the internal standard solution (Subsection C.3.t of this Section) to the contents of the container. Concentrate the sample to a volume of about 1-5 ml using the rotary evaporator apparatus at a temperature of less than 37°C. Rinse the sample container apparatus at a temperature of less than 37°C. Rinse the sample container three times with small portions of toluene and add these to the concentrated solution and concentrate further to near dryness. Analyze the extract separately according to the procedures in Subsection E.2 and 3 of this Section, but concentrate the solution in a rotary evaporator apparatus rather than a nitrogen evaporative concentrator.

2. Sample cleanup and fractionation

a. Silica gel column. Pack one end of a glass column, 20 mm × 230 mm, with glass wool. Add in sequence, 1 g silica gel, 2 g of sodium hydroxide impregnated silica gel, 1 g silica gel, 4 g of acid-modified silica gel, and 1 g of silica gel. Wash the column with 30 ml of hexane and discard it. Add the sample extract, dissolved in 5 ml of hexane to the column with two additional 5-ml rinses. Elute the column with an additional 90 ml of hexane and retain the entire eluate. Concentrate this solution to a volume of about 1 ml using the nitrogen evaporative concentrator (Subsection B.3.h of this Section).

b. Basic alumina column. Shorten a 25-ml disposable Pasteur pipette to about 16 ml. Pack the lower section with

glass wool and 12 g of basic alumina. Transfer the concentrated extract from the silica gel column to the top of the basic alumina column and elute the column sequentially with 120 ml of 0.5 percent methylene chloride in hexane followed by 120 ml of 35 percent methylene chloride in hexane. Discard the first 120 ml of eluate. Collect the second 120 ml of eluate and concentrate it to about 0.5 ml using the nitrogen evaporative concentrator.

c. AX-21 carbon/celite 545 column. Remove the bottom 0.5 in. from the tip of a 9-ml disposable Pasteur pipette. Insert a glass fiber filter disk in the top of the pipette 2.5 cm from the constriction. Add sufficient carbon/celite mixture to form a 2 cm column. Top with a glass wool plug. In some cases AX-21 carbon fines may wash through the glass wool plug and enter the sample. This may be prevented by adding a celite plug to the exit end of the column. Rinse the column in sequence with 2 ml of 50 percent benzene in ethyl acetate, 1 ml of 50 percent methylene chloride in cyclohexane, and 2 ml of hexane. Discard these rinses. Transfer the concentrate in 1 ml of hexane from the basic alumina column to the carbon/celite column along with 1 ml of hexane rinse. Elute the column sequentially with 2 ml of 50 percent methylene chloride in hexane and 2 ml of 50 percent benzene in ethyl acetate and discard these eluates. Invert the column and elute in the reverse direction with 13 ml of toluene. Collect this eluate. Concentrate the eluate in a rotary evaporator at 50°C to about 1 ml. Transfer the concentrate to a Reacti-vial using a toluene rinse and concentrate to a volume of 200 µl using a stream of N₂. Store extracts at room temperature, shielded from light, until the analysis is performed.

3. Analysis. Analyze the sample with a gas chromatograph coupled to a mass spectrometer (GC/MS) using the instrumental parameters in Subsection E.3.a and b of this Section. Immediately prior to analysis, add a 20 µl aliquot of the recovery standard solution from Table 1 to each sample. A 2 µl aliquot of the extract is injected into the GC. Sample extracts are first analyzed using the DB-5 capillary column to determine the concentration of each isomer of PCDDs and PCDFs (tetra- through octa-). If tetra-chlorinated dibenzofurans are detected in this analysis, then analyze another aliquot of the sample in a separate run, using the DB-225 column to measure the 2,3,7,8 tetra-chloro dibenzofuran isomer. Other column systems may be used, provided that the user is able to demonstrate using calibration and performance checks that the column system is able to meet the specifications of Subsection F.1.b.ii of this Section.

a. Gas chromatograph operating conditions.

i. Injector. Configured for capillary column, splitless, 250°C.

ii. Carrier gas. Helium, 1-2 ml/min.

iii. Oven. Initially at 150°C. Raise by at least 40°C/min to 190°C and then at 3°C/min up to 300°C.

b. High resolution mass spectrometer.

i. Resolution. 10000 m/e.

ii. Ionization mode. Electron impact.

iii. Source temperature 250°C.

iv. Monitoring mode. Selected ion monitoring. A list of the various ions to be monitored is summarized in Table 3.

v. Identification criteria. The following identification criteria shall be used for the characterization of polychlorinated dibenzodioxins and dibenzofurans.

(a). The integrated ion-abundance ratio (M/M+2 or

M+2/M+4) shall be within 15 percent of the theoretical value. The acceptable ion-abundance ratio ranges for the identification of chlorine-containing compounds are given in Table 4.

(b). The retention time for the analytes must be within three seconds of the corresponding ¹³C-labeled internal standard, surrogate or alternate standard.

(c). The monitored ions, shown in Table 3 for a given analyte, shall reach their maximum within two seconds of each other.

(d). The identification of specific isomers that do not have corresponding ¹³C-labeled standards is done by comparison of the relative retention time (RRT) of the analyte to the nearest internal standard retention time with reference (i.e., within 0.005 RRT units) to the comparable RRTs found in the continuing calibration.

(e). The signal to noise ratio for all monitored ions must be greater than 2.5.

(f). The confirmation of 2,3,7,8-TCDD and 2,3,7,8-TCDF shall satisfy all of the above identification criteria.

(g). For the identification of PCDFs no signal may be found in the corresponding PCDF channels.

vi. Quantification. The peak areas for the two ions monitored for each analyte are summed to yield the total response for each analyte. Each internal standard is used to quantify the indigenous PCDDs or PCDFs in its homologous series. For example, the ¹³C₁₂-2,3,7,8-tetra chlorinated dibenzodioxin is used to calculate the concentrations of all other tetra chlorinated isomers. Recoveries of the tetra- and penta- internal standards are calculated using the ¹³C₁₂-1,2,3,4-TCDD. Recoveries of the hexa- through octa- internal standards are calculated using ¹³C₁₂-1,2,3,7,8,9-HxCDD. Recoveries of the surrogate standards are calculated using the corresponding homolog from the internal standard.

F. Calibration

Same as LAC 33:III.6015 with the following additions.

1. GC/MS system.

a. Initial calibration. Calibrate the GC/MS system using the set of five standards shown in Table 2. The relative standard deviation for the mean response factor from each of the unlabeled analytes (Table 2) and of the internal, surrogate, and alternate standards shall be less than or equal to the values in Table 5. The signal to noise ratio for the GC signal present in every selected ion current profile shall be greater than or equal to 2.5. The ion abundance ratios shall be within the control limits in Table 4.

b. Daily performance check

i. Calibration check. Inject one μ l of solution Number 3 from Table 2. Calculate the relative response factor (RRF) for each compound and compare each RRF to the corresponding mean RRF obtained during the initial calibration. The analyzer performance is acceptable if the measured RRFs for the labeled and unlabeled compounds for the daily run are within the limits of the mean values shown in Table 5. In addition, the ion-abundance ratios shall be within the allowable control limits shown in Table 4.

ii. Column separation check. Inject a solution of a mixture of PCDDs and PCDFs that documents resolution between 2,3,7,8-TCDD and other TCDD isomers. Resolution is defined as a valley between peaks that is less than 25 percent of the lower of the two peaks. Identify and record the retention time windows for each homologous series. Perform a similar resolution check on the confirmation column

to document the resolution between 2,3,7,8-TCDF and other TCDF isomers.

2. Lock Channels. Set mass spectrometer lock channels as specified in Table 3. Monitor the quality control check channels specified in Table 3 to verify instrument stability during the analysis.

G. Quality Control

1. Sampling train collection efficiency check. Add 100 μ l of the surrogate standards in Table 1 to the adsorbent cartridge of each train before collecting the field samples.

2. Internal standard percent recoveries. A group of nine carbon labeled PCDDs and PCDFs representing, the tetra-through octachlorinated homologues, is added to every sample prior to extraction. The role of the internal standards is to quantify the native PCDDs and PCDFs present in the sample as well as to determine the overall method efficiency. Recoveries of the internal standards must be between 40 to 130 percent for the tetra-through hexachlorinated compounds while the range is 25 to 130 percent for the higher hepta- and octachlorinated homologues.

3. Surrogate recoveries. The five surrogate compounds in Table 2 are added to the resin in the adsorbent sampling cartridge before the sample is collected. The surrogate recoveries are measured relative to the internal standards and are a measure of collection efficiency. They are not used to measure native PCDDs and PCDFs. All recoveries shall be between 70 and 130 percent. Poor recoveries for all the surrogates may be an indication of breakthrough in the sampling train. If the recovery of all standards is below 70 percent, the sampling runs must be repeated. As an alternative, the sampling runs do not have to be repeated if the final results are divided by the fraction of surrogate recovery. Poor recoveries of isolated surrogate compounds should not be grounds for rejecting an entire set of the samples.

4. Toluene QA rinse. Report the results of the toluene QA rinse separately from the total sample catch. Do not add it to the total sample.

H. Quality Assurance

1. Applicability. When the method is used to analyze samples to demonstrate compliance with a source emission regulation, an audit sample must be analyzed, subject to availability.

2. Audit procedure. Analyze an audit sample with each set of compliance samples. The audit sample contains tetra-through octa- isomers of PCDD and PCDF. Concurrently, analyze the audit sample and a set of compliance samples in the same manner to evaluate the technique of the analyst and the standards preparation. The same analyst, analytical reagents, and analytical system shall be used both for the compliance samples and the EPA audit sample.

3. Audit sample availability. Audit samples will be supplied only to enforcement agencies for compliance tests. The availability of audit samples may be obtained by writing: Source Test Audit Coordinator (MD-77B), Quality Assurance Division, Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, or by calling the Source Test Audit Coordinator (STAC) at (919) 541-7834. The request for the audit sample must be made at least 30 days prior to the scheduled compliance sample analysis.

4. Audit results. Calculate the audit sample concentration according to the calculation procedure

described in the audit instructions included with the audit sample. Fill in the audit sample concentration and the analyst's name on the audit response form included with the audit instructions. Send one copy to the EPA Regional Office or the appropriate enforcement agency and a second copy to the STAC. The EPA Regional Office or the appropriate enforcement agency will report the results of the audit to the laboratory being audited. Include this response with the results of the compliance samples in relevant reports to the EPA Regional Office or the appropriate enforcement agency.

1. Calculations

Same as LAC 33:III.6015.F with the following additions.

1. Nomenclature.

A_{ai} = Integrated ion current of the noise at the retention time of the analyte.

A_{ci}^* = Integrated ion current of the two ions characteristic of the internal standard i in the calibration standard.

A_{cij} = Integrated ion current of the two ions characteristic of compound i in the j th calibration standard.

A_{cij}^* = Integrated ion current of the two ions characteristic of the internal standard i in the j th calibration standard.

A_{csi} = Integrated ion current of the two ions characteristic of surrogate compound i in the calibration standard.

A_i = Integrated ion current of the two ions characteristic of compound i in the sample.

A_i^* = Integrated ion current of the two ions characteristic of internal standard i in the sample.

A_{rs} = Integrated ion current of the two ions characteristic of the recovery standard.

A_{si} = Integrated ion current of the two ions characteristic of surrogate compound i in the sample.

C_i = Concentration of PCDD or PCDF i in the sample, pg/M^3 .

C_T = Total concentration of PCDDs or PCDFs in the sample, pg/M^3 .

m_{ci} = Mass of compound i in the calibration standard injected into the analyzer, pg .

m_{rs} = Mass of recovery standard in the calibration standard injected into the analyzer, pg .

m_{si} = Mass of surrogate compound i in the calibration standard, pg .

RRF_i = Relative response factor.

RRF_{rs} = Recovery standard response factor.

RRF_s = Surrogate compound response factor.

2. Average relative response factor (Eq. 23-1).

$$RRF_i = \frac{1}{n} \sum_{j=1}^n \frac{A_{cij} m_{ci}^*}{A_{cij}^* m_{ci}}$$

3. Concentration of the PCDDs and PCDFs (Eq. 23-2).

$$C_i = \frac{m_i^* A_i}{A_i^* RRF_i V_{mstd}}$$

4. Recovery standard response factor (Eq. 23-3).

$$RRF_{rs} = \frac{A_{ci}^* m_{rs}}{A_{rs} m_{ci}^*}$$

5. Recovery of internal standards (R^*) (Eq. 23-4).

$$R^* = \frac{A_i^* m_{rs}}{A_{rs} RRF_{rs} m_i^*} \times 100\%$$

6. Surrogate compound response factor (Eq. 23-5).

$$RRF_s = \frac{A_{ci}^* m_s}{A_{cis} m_{ci}^*}$$

7. Recovery of surrogate compounds (R_s) (Eq. 23-6).

$$R_s = \frac{A_s m_i^*}{A_i^* RRF_s m_s} \times 100\%$$

8. Minimum detectable limit (MDL) (Eq. 23-7).

$$MDL = \frac{2.5 A_{ai} m_i^*}{A_{ci}^* RRF_i}$$

9. Total concentration of PCDDs and PCDFs in the sample (Eq. 23-8).

$$C_{Tr} = \sum_{i=1}^n C_i$$

Any PCDDs or PCDFs that are reported as nondetected (below the MDL) shall be counted as zero for the purpose of calculating the total concentration of PCDDs and PCDFs in the sample.

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TABLE 1.—COMPOSITION OF THE SAMPLE FORTIFICATION AND RECOVERY STANDARDS SOLUTIONS.

Analyte	Concentration (pg/μl)
Internal Standards:	
¹³ C ₁₂ -2,3,7,8-TCDD	100
¹³ C ₁₂ -1,2,3,7,8-PeCDD	100
¹³ C ₁₂ -1,2,3,6,7,8-HxCDD	100
¹³ C ₁₂ -1,2,3,4,6,7,8-HpCDD	100
¹³ C ₁₂ -OCDD	100
¹³ C ₁₂ -2,3,7,8-TCDF	100
¹³ C ₁₂ -1,2,3,7,8-PeCDF	100
¹³ C ₁₂ -1,2,3,6,7,8-HxCDF	100
¹³ C ₁₂ -1,2,3,4,6,7,8-HpCDF	100
Surrogate Standards:	
³⁷ Cl ₄ -2,3,7,8-TCDD	100
¹³ C ₁₂ -1,2,3,4,7,8-HxCDD	100
¹³ C ₁₂ -2,3,4,7,8-PeCDF	100
¹³ C ₁₂ -1,2,3,4,7,8-HxCDF	100
¹³ C ₁₂ -1,2,3,4,7,8,9-HpCDF	100
Recovery Standards:	
¹³ C ₁₂ -1,2,3,4-TCDD	500
¹³ C ₁₂ -1,2,3,7,8,9-HxCDD	500

TABLE 2.—COMPOSITION OF THE INITIAL CALIBRATION SOLUTIONS

Compound	Concentrations (pg/μl)				
	Solution No.				
	1	2	3	4	5
Alternate Standard: ¹³ C ₁₂ -1,2,3,7,8,9-HxCDF	2.5	5	25	250	500
Recovery Standards: ¹³ C ₁₂ -1,2,3,4-TCDD	100	100	100	100	100
¹³ C ₁₂ -1,2,3,7,8,9-HxCDD	100	100	100	100	100

TABLE 3.—ELEMENTAL COMPOSITIONS AND EXACT MASSES OF THE IONS MONITORED BY HIGH RESOLUTION MASS SPECTROMETRY FOR PCDDs AND PCDFs

Descriptor No.	Accurate Mass	Ion Type	Elemental Composition	Analyte
2	292.9825	LOCK	C ₇ F ₁₁	PFK
	303.9016	M	C ₁₂ H ₄ ³⁵ Cl ₄ O	TCDF
	305.8987	M + 2	C ₁₂ H ₄ ³⁵ Cl ³⁷ O	TCDF
	315.9419	M	¹³ C ₁₂ H ₄ ³⁵ Cl ₄ O	TCDF (S)
	317.9389	M + 2	¹³ C ₁₂ H ₄ ³⁵ Cl ₃ ³⁷ ClO	TCDF (S)
	319.8965	M	C ₁₂ H ₄ ³⁵ ClO ₂	TCDD
	321.8936	M + 2	C ₁₂ H ₄ ³⁵ Cl ₃ ³⁷ ClO ₂	TCDD
	327.8847	M	C ₁₂ H ₄ ³⁷ Cl ₄ O ₂	TCDD (S)
	330.9792	QC	C ₇ F ₁₃	PFK
	331.9368	M	¹³ C ₁₂ H ₄ ³⁵ Cl ₂ O ₂	TCDD (S)
	333.9339	M + 2	¹³ C ₁₂ H ₄ ³⁵ Cl ³⁷ ClO ₂	TCDD (S)
	339.8597	M + 2	C ₁₂ H ₃ ³⁵ Cl ₄ ³⁷ ClO	PeCDF
	341.8567	M + 4	C ₁₂ H ₃ ³⁵ Cl ₃ ³⁷ Cl ₂ O	PeCDF
	351.9000	M + 2	¹³ C ₁₂ H ₃ ³⁵ Cl ₄ ³⁷ ClO	PeCDF (S)
	353.8970	M + 4	¹³ C ₁₂ H ₃ ³⁵ Cl ³⁵³⁷ Cl ₂ O	PeCDF (S)
	355.8546	M + 2	C ₁₂ H ₃ ³⁵ Cl ₃ ³⁷ ClO ₂	PeCDD
	357.8516	M + 4	C ₁₂ H ₃ ³⁵ Cl ₃ ³⁷ Cl ₂ O ₂	PeCDD
	367.8949	M + 2	¹³ C ₁₂ H ₃ ³⁵ Cl ₄ ³⁷ ClO ₂	PeCDD (S)
	369.8919	M + 4	¹³ C ₁₂ H ₃ ³⁵ Cl ₃ ³⁷ Cl ₂ O ₂	PeCDD (S)
	375.8364	M + 2	C ₁₂ H ₄ ³⁵ Cl ₃ ³⁷ ClO	HxCDFPE
	409.7974	M + 2	C ₁₂ H ₃ ³⁵ Cl ₆ ³⁷ ClO	HpCDFPE
3	373.8208	M + 2	C ₁₂ H ₂ ³⁵ Cl ₅ ³⁷ ClO	HxCDF
	375.8178	M + 4	C ₁₂ H ₂ ³⁵ Cl ₄ ³⁷ Cl ₂ O	HxCDF
	383.8639	M	¹³ C ₁₂ H ₂ ³⁵ Cl ₆ O	HxCDF (S)
	385.8610	M + 2	¹³ C ₁₂ H ₂ ³⁵ Cl ₅ ClO	HxCDF (S)
	389.8157	M + 2	C ₁₂ H ₂ ³⁵ Cl ₅ ³⁷ ClO ₂	HxCDD

Descriptor No.	Accurate Mass	Ion Type	Elemental Composition	Analyte
	391.8127	M + 4	C ₁₂ H ₂ ³⁵ Cl ₄ ³⁷ Cl ₂ O ₂	HxCDD
	392.9760	LOCK	C ₉ F ₁₅	PFK
	401.8559	M + 2	¹³ C ₁₂ H ₂ ³⁵ Cl ₅ ³⁷ ClO ₂	HxCDD (S)
	403.8529	M + 4	¹³ C ₁₂ H ₂ ³⁵ Cl ₄ ³⁷ Cl ₂ O	HxCDD (S)
	445.7555	M + 4	C ₁₂ H ₂ ³⁵ Cl ₆ ³⁷ Cl ₂ O	OCDFPE
	430.9729	QC	C ₉ F ₁₇	PFK
4	407.7818	M + 2	C ₁₂ H ³⁵ Cl ₆ ³⁷ ClO	HpCDF
	409.7789	M + 4	C ₁₂ H ³⁵ Cl ₅ ³⁷ Cl ₂ O	HpCDF
	417.8253	M	¹³ C ₁₂ H ³⁵ Cl ₇ O	HpCDF (S)
	419.8220	M + 2	¹³ C ₁₂ H ³⁵ Cl ₆ ³⁷ ClO	HpCDF (S)
	423.7766	M + 2	C ₁₂ H ³⁵ Cl ₈ ³⁷ ClO ₂	HpCDD
	425.7737	M + 4	C ₁₂ H ³⁵ Cl ₅ ³⁷ Cl ₂ O ₂	HpCDD
	435.8169	M + 2	¹³ C ₁₂ H ³⁵ Cl ₆ ³⁷ ClO ₂	HpCDD (S)
	437.8140	M + 4	¹³ C ₁₂ H ³⁵ Cl ₅ ³⁷ Cl ₂ O ₂	HpCDD (S)
	479.7165	M + 4	C ₁₂ H ³⁵ Cl ₇ ³⁷ Cl ₂ O	NCPDE
	430.9729	LOCK	C ₉ F ₁₇	PFK
	441.7428	M + 2	C ₁₂ ³⁵ Cl ₃ ³⁷ ClO	OCDF
	443.7399	M + 4	C ₁₂ ³⁵ Cl ₆ ³⁷ Cl ₂ O	OCDF
	457.7377	M + 2	C ₁₂ ³⁵ Cl ₇ ³⁷ ClO ₂	OCDD
	459.7348	M + 4	C ₁₂ ³⁵ Cl ₆ ³⁷ Cl ₂ O ₂	OCDD
	469.7779	M + 2	¹³ C ₁₂ ³⁵ Cl ₇ ³⁷ ClO ₂	OCDD (S)
	471.7750	M + 4	¹³ C ₁₂ ³⁵ Cl ₆ ³⁷ Cl ₂ O ₂	OCDD (S)
	513.6775	M + 4	C ₁₂ ³⁵ Cl ₈ ³⁷ Cl ₂ O ₂	DCDFPE
	442.9728	QC	C ₁₀ F ₁₇	PFK

The following nuclidic masses were used:

H = 1.0078250 = 15.994915

C = 12.000000³⁵Cl = 34.968853

¹³C = 13.003355³⁷Cl = 36.965903

F = 18.9984S = Labeled Standard

QC = Ion selected for monitoring instrument stability during the GC/MS analysis.

O = 15.994915

³⁵Cl = 34.968853

³⁷Cl = 36.965903

S = Labeled Standard

TABLE 4.—ACCEPTABLE RANGES FOR ION-ABUNDANCE RATIOS OF PCDDs AND PCDFs

No. of Chlorine Atoms	Ion Type	Theoretical ratio	Control Limits	
			Lower	Upper
4	M/M+2	0.77	0.65	0.89
5	M+2/M+4	1.55	1.32	1.78
6	M+2/M+4	1.24	1.05	1.43
6 ^a	M/M+2	0.51	0.43	0.59
7 ^b	M/M+2	0.44	0.37	0.51
7	M+2/M+4	1.04	0.88	1.20
8	M+2/M+4	0.89	0.76	1.02

^a Used only for ¹³C-HxCDF.

^b Used only for ¹³C-HpCDF.

TABLE 5.—MINIMUM REQUIREMENTS FOR INITIAL AND DAILY CALIBRATION RESPONSE FACTORS

Compound	Relative Response Factors	
	Initial Calibration RSD	Daily Calibration % Difference
Unlabeled Analytes:		
2,3,7,8-TCDD	25	25
2,3,7,8-TCDF	25	25
1,2,3,7,8-PeCDD	25	25
1,2,3,7,8-PeCDF	25	25
2,3,4,7,8-PeCDF	25	25
1,2,4,5,7,8-HxCDD	25	25
1,2,3,6,7,8-HxCDD	25	25
1,2,3,7,8,9-HxCDD	25	25
1,2,3,4,7,8-HxCDF	25	25
1,2,3,6,7,8-HxCDF	25	25
1,2,3,7,8,9-HxCDF	25	25

Compound	Relative Response Factors	
	Initial Calibration RSD	Daily Calibration % Difference
2,3,4,6,7,8-HxCDF	25	25
1,2,3,4,6,7,8-HpCDD	25	25
1,2,3,4,6,7,8-HpCDF	25	25
OCDD	25	25
OCDF	30	30
Internal Standards:		
¹³ C ₁₂ -2,3,7,8-TCDD	25	25
¹³ C ₁₂ -1,2,3,7,8-PeCDD	30	30
¹³ C ₁₂ -1,2,3,6,7,8-HxCDD	25	25
¹³ C ₁₂ -1,2,3,4,6,7,8-HpCDD	30	30
¹³ C ₁₂ -OCDD	30	30
¹³ C ₁₂ -2,3,7,8-TCDF	30	30
¹³ C ₁₂ -1,2,3,7,8-PeCDF	30	30
¹³ C ₁₂ -1,2,3,6,7,8-HxCDF	30	30
¹³ C ₁₂ -1,2,3,4,6,7,8-HpCDF	30	30
Surrogate Standards:		
³⁷ Cl ₄ -2,3,7,8-TCDD	25	25
¹³ C ₁₂ -2,3,4,7,8-PeCDF	25	25
¹³ C ₁₂ -1,2,3,4,7,8-HxCDD	25	25
¹³ C ₁₂ -1,2,3,4,7,8-HxCDF	25	25
¹³ C ₁₂ -1,2,3,4,7,8,9-HpCDF	25	25
Alternate Standard:		
¹³ C ₁₂ -1,2,3,7,8,9-HxCDF	25	25

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James B. Thompson, III
Assistant Secretary

RULE

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

Radiation fee schedule (NE05) (LAC 33:XV.Chapter 25)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2104.B.1, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has repealed and re promulgated the Radiation Protection regulations, LAC 33:XV.Chapter 25, (Log NE05).

This rule will provide changes in the fee schedule for all users of radioactive material, radiation producing equipment and nuclear power plants.

Title 33

**ENVIRONMENTAL QUALITY
Part XV. Radiation Protection**

Chapter 25. Fee Schedule

§2501. Scope and Purpose

It is the purpose of these regulations to establish a fee system for funding the monitoring, investigation, and other activities required to be conducted for the maintenance of a safe and healthful environment by the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act (R.S. 30:2101 et seq.). Fees are required for all permits, licenses, registrations, and variances authorized by the Act.

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

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

§2502. Authority

These regulations provide fees as required by R.S. 30:2014.B, R.S. 30:2106, and R.S. 30:2115.

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

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

§2503. Definitions

All terms used in these rules, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act, or in other regulations promulgated by the administrative authority or his or her predecessor, shall have their usual meanings.

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

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

§2504. Application Fees

Each application or amendment thereto for which a fee is prescribed shall be accompanied by a remittance in the full amount of the fee. No application or amendment thereto shall be accepted or processed prior to payment of the full amount specified. No permit, license, registration, or variance shall be issued, unless otherwise authorized by the administrative authority, until such check or draft has been accepted by the bank or drawee and the department's

account has been credited with the amount of the fee in full.

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

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

§2505. Annual Fees

Unless otherwise provided herein, all activities for which an annual fee is provided shall be subject to the payment of such fee within 30 days from receipt of billing, except that any fee in excess of \$50,000, upon written application to, and approval of, the administrative authority, may be paid in installments over a period not to exceed six months, according to a payment schedule established by the division or the administrative authority.

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

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

§2506. Reciprocal Agreements--Licenses and Registrants

Persons operating within Louisiana under the provisions of LAC 33:XV.212 or LAC 33:XV.390 shall submit the annual fee of the applicable category before the first entry into the state. The fee will allow reciprocal recognition of the license for one year from the date of receipt.

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

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

§2507. Reimbursements

A. One half of the annual fee will be reimbursed to the licensee or registrant upon receipt of a written request to terminate the license or registration, provided that the request has been received by the division within 180 days after the annual fee due date, and the fee has not been delinquent. Requests for termination of the license or registration received after 180 days of the annual fee due date will not entitle the licensee or registrant to reimbursement of any portion of the annual fee. No interest, legal or otherwise, will be paid on the funds withheld prior to reimbursement.

B. One-half of the application fee will be reimbursed to the licensee or registrant upon receipt of a written request from the applicant to withdraw an application prior to final approval. In the case of the denial of an application, for whatever reason, one half of the application fee will be refunded. No interest, legal or otherwise, will be paid on the funds withheld prior to reimbursement.

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

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

§2508. Determination of Fee

A. The fee for each applicable category is listed in Appendix A of this Chapter.

B. In the case of licenses that authorize more than one activity, the total fee will be for the activity assigned the higher fee.

C. Licenses that are amended and that result in a change in the Appendix A category to a more costly license shall be assessed the entire fee for that type of license

effective with the amendment without regard to any fees already paid.

D. Electronic products that are in storage are subject to the same initial application fee and annual maintenance fee unless the X-ray unit is rendered permanently incapable of producing radiation and this fact is documented in writing to the division.

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

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

§2509. Method of Payment

Fee payment shall be made by check, draft or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice. Unless otherwise provided herein, all invoices will have a due date that is 30 days from the date of receipt.

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

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

§2510. Late Payment

Fees not received within 15 days of the due date, will be subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

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

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

§2511. Failure to Pay

Failure to pay the prescribed application fee or annual fee as provided herein will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable license or registration.

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

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

§2512. Effective Date

The fees prescribed herein shall be effective on July 20, 1992, or upon publication in the *Louisiana Register* as adopted.

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

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

CHAPTER 25
Appendix A

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Application Fee	Annual Maintenance Fee
I. Radioactive Material Licensing		
A. Medical licenses:		
1. Therapy		
a. Teletherapy	530	530
b. Brachytherapy	530	530
2. Nuclear medicine diagnostic only	650	650
3. Nuclear medicine diagnostic/therapy	700	700
4. Nuclear pacemaker implantation	260	260

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Application Fee	Annual Maintenance Fee
5. Eye applicators	260	260
6. In-vitro studies or radioimmunoassays or calibration sources	260	260
7. Processing or manufacturing and distribution of radiopharmaceuticals	1,030	875
8. Mobile nuclear medicine services	1,030	875
9. "Broad scope" medical licenses	1,030	875
10. Manufacturing of medical devices/sources	1,200	1,000
11. Distribution of medical devices/sources	900	750
12. All other medical licenses	290	290
B. Source material licenses		
1. For mining, milling, or processing activities, or utilization which results in concentration or redistribution of naturally occurring radioactive material	5,200	5,200
2. For the concentration and recovery of uranium from phosphoric acid as "yellow cake" (powered solid)	2,600	2,600
3. For the concentration of uranium from or in phosphoric acid	1,300	1,300
4. All other specific "source material" licenses	260	260
C. Special nuclear material (SNM) licenses:		
1. For use of SNM in sealed sources contained in devices used in measuring systems	400	400
2. SNM used as calibration for reference sources	260	260
3. All other licenses for use of SNM in quantities not sufficient to form a critical mass, except as in I.A.4, I.C.1, and 2	260	260
D. Industrial radioactive material licenses:		
1. For processing or manufacturing for commercial distribution	5,150	3,875
2. For industrial radiography operations performed in a shielded radiography installation(s) or permanently designated areas at the address listed in the license	875	690
3. For industrial radiography operations performed at temporary job-site(s) of the licensee	2,580	1,940
4. For possession and use of radioactive materials in sealed sources for irradiation of materials where the source is not removed from the shield and is less than 10,000 Curies	1,300	650
5. For possession and use of radioactive materials in sealed sources for irradiation of materials when the source is not removed from the shield and is greater than 10,000 Curies, or where the source is removed from the shield	2,580	1,290
6. For distribution of items containing radioactive material	1,300	1,300
7. Well-logging and subsurface tracer studies		
a. Collar markers, nails, etc. for orientation	260	260
b. Sealed sources less than 10 Curies and/or tracers less than or equal to 500 mCi	775	775
c. Sealed sources of 10 Curies or greater and/or tracers greater than 500 mCi but less than 5 Ci	1,300	1,300
d. Field flood studies and/or tracers equal to or greater than 5 Curies	1,950	1,950

**APPENDIX A
RADIATION PROTECTION PROGRAM FEE SCHEDULE**

	Application Fee	Annual Maintenance Fee
8. Operation of a nuclear laundry	5,150	2,580
9. Industrial research and development of radioactive materials or products containing radioactive materials	650	650
10. Academic research and/or instruction	530	530
11. Licenses of broad scope: a. Academic, industrial, research and development, total activity equal to or greater than 1 Curie	1,300	1,300
b. Academic, industrial, research and development, total activity less than 1 Curie	775	775
12. Gas chromatographs, sulfur analyzers, lead analyzers, or similar laboratory devices	260	260
13. Calibration sources equal to or less than 1 Curie per source	260	260
14. Level or density gauges	400	400
15. Pipe wall thickness gauges	530	530
16. Soil moisture and density gauges	400	400
17. NORM decontamination/maintenance a. at permanently designated areas at the location(s) listed in the license	2,500	1,250
b. at temporary jobsite(s) of the licensee	2,500	1,500
18. Commercial NORM storage	1,250	1,250
19. All other specific industrial licenses except otherwise noted	530	530
E. Radioactive waste disposal licenses: 1. Commercial waste disposal involving burial	675,000	675,000
2. Commercial waste disposal involving incineration of vials containing liquid scintillation fluids	5,150	2,580
3. All other commercial waste disposal involving storage, packaging and/or transfer	2,580	2,580
F. Civil defense licenses	315	260
G. Teletherapy service company license	1,300	1,300
H. Consultant licenses 1. No calibration sources	130	75
2. Possession of calibration sources equal to or less than 500 mCi each	190	130
3. Possession of calibration sources greater than 500 mCi	260	190
4. Installation and/or servicing of medical afterloaders	350	300
II. Electronic Product Registration		
1. Medical diagnostic x-ray (per registration)	85	85
2. Medical therapeutic x-ray (per registration) a. below 500 kVp	200	200
b. 500 kVp to 1 MeV (including accelerator and Van de Graaf)	400	400
c. 1 MeV to 10 MeV	600	600
d. 10 MeV or greater	800	800

**APPENDIX A
RADIATION PROTECTION PROGRAM FEE SCHEDULE**

	Application Fee	Annual Maintenance Fee
3. Dental x-ray (per registration)	75	70
4. Veterinary x-ray (per registration)	75	75
5. Educational institution x-ray (teaching unit, per registration)	125	75
6. Industrial accelerator (includes Van de Graaf machines and neutron generators)	400	400
7. Industrial radiography (per registration)	200	200
8. All other x-ray (per registration) except as otherwise noted	90	90
III. General licenses		
A. NORM		
1. 1-5 wellheads per NORM contaminated field	100	100
2. 6-20 wellheads per NORM contaminated field	500	500
3. Greater than 20 wellheads per NORM contaminated field	1,500	1,500
4. NORM site as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404	100	100
B. Tritium sign	75	0
C. All other general licenses which require registration	100	100
IV. Reciprocal Recognition		
The fee for reciprocal recognition of a license or registration from another state or the NRC is the annual fee of the applicable category. The fee covers activities in the state of Louisiana for one year from the date of receipt.		
V. Shielding Evaluation (per room)		
A. Diagnostic	100	"
B. Therapeutic (below 500 kVp)	150	"
C. Therapeutic (500 kVp to 1 MeV)	250	"
D. Therapeutic (1 MeV to 10 MeV)	350	"
E. Therapeutic (10 MeV or greater)	750	"
F. Industrial and industrial radiography	350	"
VI. Device, Product, or Sealed Source Evaluation		
A. Device evaluation (each)	700	"
B. Sealed source design evaluation (each)	450	"
C. Update sheet	150	"
VII. Testing to determine qualifications of employees, per test administered	128	"
VIII. Nuclear electric generating station (per site)		
Located in Louisiana		283,500
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		208,000
Uranium Enrichment Facility		50,000
IX. La Radiation Protection Division Laboratory Analysis Fees		
Sample Type	Analysis	Unit Price

Air filters: Particulate Charcoal cartridge	Gross beta Gamma Gamma/I-131	55 159 159
Milk	Gamma I-131	170 181
Water	Gamma I-131 H-3	181 181 68
Sediment	Gamma	192
Vegetation	Gamma	181
Fish	Gamma	192
Leak test	Gamma H-3	159 68
NORM sample Produced water	Gamma Gamma	170 181
* charges are one time and do not recur		

James B. Thompson, III
Assistant Secretary

RULE

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

Amends Subpart I of Hazardous Waste Rules
(LAC 33:V.Chapters 1, 17, 22, 37, 43 and 49) (HW31)

Under the authority of the Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Hazardous Waste Regulations, LAC 33:V.Subpart I, (Log #HW31).

These regulations are concerned with special wastes from mineral processing; identification and listing of hazardous waste; standards applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities; liability requirements and financial responsibility; land disposal restrictions; organic air emission standards for process vents and equipment leaks; petroleum refinery primary and secondary oil/water/solids separation sludge listings; hydrocarbon recovery operations; toxicity characteristic; and the hazardous waste management system.

These regulations are available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

James B. Thompson, III
Assistant Secretary

RULE

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

Revised Fee Schedule for Facilities that Reclaim or Recycle
Hazardous Waste

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly R.S. 30:2014, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Hazardous Waste Regulations, LAC 33:V.Chapter 51, (Logs HW35 and HW36).

These regulations provide a revised fee schedule that will accurately cover the costs incurred by the department in providing professional personnel to expediently review permit applications and to efficiently and effectively regulate the industrial community. This fee increase is also necessary to cover operating costs and annual maintenance and monitoring costs. These regulations will also provide a revised fee schedule for those facilities that reclaim or recycle hazardous waste. This reduced fee schedule will provide incentives to the regulated community to reclaim or recycle hazardous waste.

Combining HW35 and HW36 as a final rule will clarify any confusion and establish the fact that off-site disposer fee (Commercial) is \$79,800 and that two new reclaimer fee categories have been added to LAC 33:V.5119.

**Title 33
ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality —
Hazardous Waste**

Chapter 51. Fee Schedules

§5101. Applicability

The regulations in this Chapter apply to generators of hazardous waste as well as treaters, storers, and disposers of hazardous waste except as provided in LAC 33:V.1101 and LAC 33:V.1501.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18: (July 1992).

§5103. Scope and Purpose

It is the purpose of these regulations to establish a fee system for funding the monitoring, investigation, and other activities required to be conducted for the maintenance of a safe and healthful environment by the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act (R.S. 30:2014 et seq.). Fees are required for all permits, licenses, registrations, and variances authorized by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18: (July 1992).

§5109. Application Fees

A. Treaters, Storers, and/or Disposers.

1. A one-time application fee is charged to cover application, evaluation, and other related program costs.

2. Each application thereto for which a fee is prescribed shall be accompanied by a remittance in the full amount of the fee. No application or amendments thereto shall be accepted or processed prior to payment of the full amount specified unless approved by the administrative authority. Major amendments of applications for operating permits, closure/post-closure permits, and modifications of permits may be considered as separate applications for purposes of calculating fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 16:684 (August 1990), LR 18: (July 1992).

§5111. Calculation of Application Fees

* * *

B. Application Fee schedule:

Item	Fee
Site analysis--per acre site size	\$ 250 ¹
Process and plan analysis	\$ 1,000
Facility analysis--per facility ²	\$ 500

Management/financial analysis \$ 1,000

NOTE: Fee equals total of the four items.

¹ Up to 100 acres, no additional fee thereafter.

² Incinerator, land farm, treatment pond, etc., each counted as a facility.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18: (July 1992).

§5119. Calculation of Annual Maintenance Fees

Formula to apportion fees:

Annual Maintenance Fee = fee per site + fee per facility type + fee based on volume + annual research and development fee + administrative cost fee + land disposal prohibitions fee + groundwater protection annual fee + incineration inspection and monitoring fee + annual landfill inspection and monitoring fee + annual land treatment unsaturated zone monitoring inspection fee.

A. Fee Per Site:

Off-site Disposer (Commercial)	\$ 79,800
Reclaimer (compensated for waste removed)	\$ 35,000
Reclaimer (uncompensated for waste removed or pays for waste removed)	\$ 25,000
Off-site Disposer (Non-commercial)	\$ 20,000
On-site Disposer	\$ 10,000

Note: The higher fee for off-site disposal is due to the cost of the manifest system and emergency response to transport spills (neither cost is applicable to on-site disposers).

B. Fee Per Hazardous Waste Facility Type:

Unit Type	Fee
STORAGE	
Container/Tank/Waste Pile/etc.	\$ 3,273
TREATMENT	
Incinerator/Filtration Unit/etc.	\$ 5,270
DISPOSAL	
Landfill/Miscellaneous Unit/etc.	\$ 8,270
C. Fee Based on Volume:	
Less than 1,000 tons	\$ 1,952
Less than 10,000 tons	\$ 4,904
Less than 100,000 tons	\$ 7,856
Less than 1,000,000 tons	\$ 10,808
More than 1,000,000 tons	\$ 13,760

* * *

E. Administrative Cost Fee

(Fee per site + fee per facility + fee based on volume)
x 0.30 = Administrative Cost Fee

F. Land Disposal Prohibitions Fee

Treatment, processing (including use, reuse, recycling), and/or disposal facility annual fee (not on storage facilities). This fee applies to facilities handling wastes subject to the land disposal prohibitions in LAC 33:V.Chapter 22.

On-site	\$1,000
Off-site Non-commercial	\$2,000
Reclaimer	\$2,500
Off-site Commercial	\$5,000

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 15:378 (May 1989), LR 16:684 (August 1990), LR 16:1057 (December 1990), LR 18: (July 1992).

§5123. Registration Fees, HW-1

A. An initial registration fee is charged for each generator, transporter, or TSD facility obtaining an EPA Identification Number from the department. There is no fee for modifying an existing registration based on any change of information submitted on Notification Form HW-1.

Initial Fee \$9.46

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:319 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 14:622 (September 1988), LR 18: (July 1992).

§5127. Payment

All fee payments shall be made by check, draft, or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice. Unless otherwise provided herein, all invoices will have a due date that is 30 days from the date of receipt.

AUTHORITY NOTE: Promulgated in accordance with R.S.30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18: (July 1992).

§5129. Late Payment

Fees not received within 15 days of the due date will be subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:676 (October 1986), LR 18: (July 1992).

§5131. Failure to Pay

Failure to pay the prescribed application fee or annual fee as provided herein will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Act including, but not limited to, revocation or suspension of the applicable permit, license, registration, or variance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:321 (May 1986), LR

12:676 (October 1986), LR 13:433 (August 1987), LR 18: (July 1992).

§5139. Groundwater Protection Permit Review Fee

A. Permit Review Fee

1. This fee covers the cost of reviewing permits for geology, geotechnical design, and groundwater protection aspects.

Hazardous Waste Facilities (1 time)	\$ 5,000 each
Permit Modifications Class 1 and 2	\$ 200 each
Class 3	\$ 750 each

Solid Waste Facilities (1 time)	\$ 5,000 each
Permit Modifications Major	\$ 500 each
Minor	\$ 200 each

B. Oversight of Abandonment Procedures

1. This fee covers the cost of reviewing plans to plug and abandon all permitted groundwater monitoring systems (monitoring wells, piezometers, observations wells, and recovery wells) to ensure that they do not pose a potential threat to groundwater.

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

AUTHORITY NOTE: Promulgated in accordance with 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Groundwater Division, LR 14:621 (September 1988), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 16:685 (August 1990), LR 18: (July 1992).

§5143. Annual Landfill Inspection and Monitoring Fee

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR:16:1057 (December 1990), amended LR 18: (July 1992).

James B. Thompson, III
Assistant Secretary

RULE

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

Permit application process (SW04) (LAC 33:VII.1107)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2154, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Solid Waste regulations, LAC 33:VII.1107.E, (Log #SW04).

These regulation changes will generate additional

operating funds that are needed to replace requested general funds. These funds will provide resources for expanded programs that will be required by the revision of LAC 33:VII.Subpart 1.

TITLE 33
ENVIRONMENTAL QUALITY
Part VII. Solid Waste

Chapter 11. Solid Waste Management System
§1107. Permit Application Process

* * *

E. Solid Waste Fee System

1. Permit Application Fee

a. Applicants for standard permits shall pay a \$2,500 permit application fee.

b. Payment of the permit application fee shall be due upon submission of the permit application and shall accompany each permit application submitted after promulgation of these revised regulations.

c. Permit-holders providing permit modifications for solid waste facilities shall pay a \$1,000 permit modification review fee, and the fee shall accompany each modification submitted.

2. Annual Monitoring and Maintenance Fee

a. An initial fee is charged for the processing of transporter notifications. The fee shall be calculated by the following formula:

initial fee per notification + fee based on each vehicle owned by the transporter = notification fee. No fee is assessed for modifying an existing notification form. The fee shall accompany the notification form at the time of its filing.

Initial fee	\$100
Fee per vehicle	\$ 25

b. Operators of all solid waste disposal facilities with a permit shall be charged an annual monitoring and maintenance fee for each facility.

c. Calculation of annual monitoring and maintenance fee shall be as follows:

base fee per permit + fee based on volume = annual monitoring and maintenance fee.

i. Base fee per permit for industrial solid waste sites - \$6,000.

ii. Base fee per permit for non-industrial solid waste sites - \$1,500.

iii. Fee will be based on volume as reported in the previous year Disposer Annual Report.

(a) Industrial Waste - \$0.60/ton or \$0.75/cubic yard.

(b) Non-industrial Waste - Amounts exceeding 75,000 tons - \$0.15/ton or amounts exceeding 250,000 cubic yards - \$0.09 /cubic yard.

iv. Maximum annual monitoring and maintenance fee per permit for industrial solid waste sites - \$80,000.

v. Maximum annual monitoring and maintenance fee per permit for non-industrial solid waste sites - \$20,000.

* * *

ix. Solid Waste Management systems with multiple disposal facilities which are scheduled for closure shall be assessed at a maximum, using the following maintenance and monitoring fees:

Industrial facilities	\$10,000
Non-Industrial facilities	\$ 2,500

This does not include facilities which are operating under or seeking a standard permit.

d. The annual maintenance period shall be from July

1 through June 30, commencing upon promulgation of these revised regulations and terminating upon closure of the site in accordance with the permit or order of the administrative authority.

e. Fee payment shall be made by check, draft or money order payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice. Unless otherwise provided herein, all invoices will have a due date that is 30 days from the date of receipt.

f. Late Payment - Unless otherwise provided herein, annual fees or other charges not received within 15 days of the due date will be subject to a late charge at an additional 10 percent per month.

g. Failure to Pay - The prescribed application fee or annual fee as provided herein will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration or variance.

h. The annual fees prescribed herein shall be effective retroactive for the state fiscal year in which these fee regulations are published in the *Louisiana Register* as adopted, and each state fiscal year thereafter.

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Environmental Affairs, Solid Waste Division, LR 9:473 (July 1983), amended LR 9:690 (October 1983), LR 9:847 (December 1983), amended by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division (July 1985), LR 11:533 (May 1985), LR 13:741 (December 1987), LR: 18: (July 1992).

James B. Thompson, III
Assistant Secretary

RULE

Department of Environmental Quality
Office of Solid and Hazardous Waste

Underground Storage Tanks-Definitions;
Fee schedule (LAC 33:XI.103,307)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Underground Storage Tanks (UST) regulations, LAC 33:XI (Log #UT03).

This rule includes amendments that provide for the following: 1. consistency with existing state statutes; 2. increase in the annual maintenance and monitoring fee. This fee increase will affect hazardous substance USTs, federal USTs and other substance USTs.

These regulations are effective July 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

**Title 33
ENVIRONMENTAL QUALITY**

Part XI. Underground Storage Tanks

Chapter 1. Program Applicability and Definitions

§103. Definitions

* * *

Motor Fuels--all grades of gasoline including but not limited to gasohol, No. 1 diesel, No. 2 diesel, kerosene, and all aviation fuels. Liquid petroleum (LP) gas shall not be included in this definition of motor fuels. This term shall include new and used motor oil that is used for lubricating engines of motor vehicles. If, however, used oil is determined to be a hazardous waste by the United States Environmental Protection Agency, used oil shall no longer be included in this term.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18: (July 1992).

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§307. Fee Schedule

A. Applicability

These rules and regulations provide for the imposition and collection of an annual monitoring and maintenance fee for the following UST systems, regardless of their operational status:

1. UST systems at federal facilities;
2. UST systems containing petroleum products not meeting the definition of motor fuels; and
3. UST systems containing any substance defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under the department's Hazardous Waste Regulations, LAC 33:V.Subpart 1).

B. Annual Monitoring and Maintenance Fee

1. Annual monitoring and maintenance fees are assessed according to the following schedule:

a. for UST systems containing any substance defined in the CERCLA (but not including any substance regulated as a hazardous waste under the department's hazardous waste regulations), \$500;

b. for all categories of UST systems listed in LAC 33:XI.307.A.1 and 2, \$120.

2. Fees shall be paid by check, draft or money order no later than 30 days after receipt of the annual invoice issued by the department. All fee payments shall be made payable to the Department of Environmental Quality and mailed to the department at the address provided on the invoice.

3. Fees shall be assessed for the state of Louisiana fiscal year (July 1 through June 30).

4. Any UST system shall be assessed the entire annual monitoring and maintenance fee for the fiscal year in which it is installed or permanently closed, regardless of the date during that year on which such action occurs.

5. The owner of record of the UST system on the date of invoicing by the department is responsible for payment of the annual monitoring and maintenance fees.

C. Late Payment. Fees not received within 15 days

after the due date will be subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended LR:17:658 (July 1991), LR 18: (July 1992).

James B. Thompson, III
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Underground Storage Tank Division**

Tanks exempt from registration requirements
(UT04) (LAC 33:XI.Chapters 1-11)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the regulations, LAC 33:XI, (Log #UT04).

These amendments will require that a category of tanks currently exempt from the registration requirements, register with the department. The variance provision of the regulations has been deleted. Language has been added to require that owners and operators provide certification of compliance on the registration form for installation, release detection, cathodic protection and financial responsibility. Includes factors to be considered by the owner and operator to be used in sampling a site at closure.

Title 33

ENVIRONMENTAL QUALITY

Part XI. Underground Storage Tanks

Chapter 1. Program Applicability and Definitions

§101. Applicability

* * *

D. 1-3. Deleted

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Underground Storage Tank Division, LR 16:614 (July 1990), amended LR 17:658 (July 1991), LR 18: (July 1992).

Chapter 3. Registration Requirements, Standards, and Fee Schedule

§301. Registration Requirements

A. Existing UST Systems

1. All owners of existing UST systems (as defined in LAC 33:XI.103) were required to register such systems by May 8, 1986, (USTs installed after that date were required to be registered within 30 days of bringing such tanks into use) on a form approved by the department. Tanks filled with a

solid, inert material before January 1, 1974, are not required to be registered with the department. No owner or operator shall allow a regulated substance to be placed into an existing UST system that has not been registered.

2. Owners of underground storage tanks taken out of service on or after January 1, 1974, unless the owner or operator knows the tank was subsequently removed from the ground, were required to notify the department of the existence of such tanks on or before May 8, 1986, on a form approved by the department. Owners and operators who have not complied with this requirement shall use the department's approved registration form, specifying at a minimum, to the extent known by the owner or operator, the date the tank was taken out of operation, the location of the tank, the capacity, type of construction, age of the UST system, the type of regulated substance stored in the tank, and the quantity of regulated substances left stored in the tank on the date the tank was taken out of operation, as well as other pertinent information required on the form.

3. All existing UST systems previously registered with the department shall be considered to be in compliance with this requirement if the information on file with the department is current and accurate. Maintaining current and accurate information with the department includes notifying the department of changes in ownership, or of changes in UST system descriptions resulting from upgrading, by filing an amended registration form within 30 days of the change in ownership or in description of the UST system.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), amended LR 18:(July 1992).

§303. Standards for UST Systems

A. Standards for New UST Systems

* * *

4. Installation, Certification of Installation and Verification of Installer Certification, and Notification

* * *

b. Certification of Installation and Verification of Installer Certification

* * *

ii. Beginning January 20, 1992, all owners and operators must ensure that the individual exercising supervisory control over installation critical junctures (as defined in LAC 33:XI.1303) of an UST system is certified in accordance with LAC 33:XI.Chapter 13. To demonstrate compliance with Subsection A.4.a of this Section, all owners and operators must provide a certification of compliance on a new or amended UST registration form, in accordance with LAC 33:XI.301.

* * *

B. Upgrading Existing UST Systems to New System Standards

* * *

5. Reporting Requirements

* * *

b. An amended registration form must be submitted to the department's Underground Storage Tank Division within 30 days after the UST system is upgraded. The owner and operator must certify compliance with LAC 33:XI.303.B on the amended registration form. Beginning January 20, 1992, the amended registration form shall include the name and

department-issued certificate number of the individual exercising supervisory control over those steps in the upgrade that involve repair critical junctures or installation critical junctures (as defined in LAC 33:XI.1303) of an UST system.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 11:1139 (December 1985), amended LR 16:614 (July 1990), LR 17:658 (July 1991), LR 18: (July 1992).

Chapter 5. General Operating Requirements

§509. Reporting and Recordkeeping

A. Reporting. Owners and operators must submit the following information to the department:

1. registration forms for all UST systems (LAC 33:XI.301), including certification of installation and verification of installer certification for new UST systems, in accordance with LAC 33:XI.303.A.4.b;

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste in LR 16:614 (July 1990), amended in LR 18: (July 1992).

Chapter 7. Methods of Release Detection and Release

Reporting, Investigation, Confirmation, and Response

§713. Reporting and Cleanup of Spills and Overfills

A. Owners and operators of UST systems must contain and immediately clean up a spill or overfill and report it to the department within 24 hours. They must begin corrective action in accordance with LAC 33:XI.715 in the following cases:

* * *

2. A spill or overfill of a hazardous substance has resulted in a release to the environment that equals or exceeds the reportable quantity for that substance under the federal regulations in 40 CFR Part 302.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste in LR 16:614 (July 1990), amended in LR 18: (July 1992).

Chapter 9. Out-of-Service UST Systems and Closure

§907. Assessing the Site at Closure or Change-in-Service

A. Before permanent closure or a change-in-service is completed, owners and operators must measure for the presence of a release where contamination is most likely to be present at the UST site, utilizing the procedure approved by the department. In selecting sample types, sample locations, and measurement methods, owners and operators must consider the method of closure, the nature of the stored substance, the type of backfill, the depth to groundwater, and other factors appropriate for identifying the presence of a release. Results of this assessment must be submitted in duplicate to the department within 60 days following permanent closure or change in service. The assessment results shall include a site diagram indicating locations where samples were collected and a written statement specifying which USTs have been closed. The requirements of this Section are satisfied if one of the external release detection methods allowed in LAC 33:XI.701.A.5 is operating in accordance with the requirements in LAC 33:XI.701.A at the time of closure and indicates that no release has occurred.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste in LR 16:614 (July 1990), amended in LR 18: (July 1992).

Chapter 11. Financial Responsibility

§1103. Compliance Dates

* * *

D. all petroleum UST owners not described in Subsections A, B, or C of this Section, including all local government entities-- December 31, 1993.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, LR 16:614 (July 1990), amended in LR 18: (July 1992).

James B. Thompson, III
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Water Resources**

**Fees for Review, Approval (LAC 33:XIII.Chapter 13)
(GW03)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, LA R.S. 49:950, et seq., the secretary has adopted the ground water regulations, LAC 33:XIII.Chapter 13, (Log #GW03).

This rule sets forth fees which will be assessed to cover the agency expenses incurred during review, approval, and oversight of assessment and corrective action activities.

Title 33

ENVIRONMENTAL QUALITY

Part XIII. Ground Water Protection

Chapter 13. Groundwater Fees

§1301. Authority

Rules and regulations are hereby established by the Department of Environmental Quality as authorized by R.S. 30:2014.

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

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

§1303. Scope and Purpose

The purpose of these regulations is to establish a fee system for funding the departmental review and oversight of assessment and remediation activities undertaken by those entities noted in LAC 33:XIII.1305 below and for funding the monitoring, investigation and other activities required to be conducted for the maintenance of a safe and healthful environment by the Department of Environmental Quality.

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

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Water Resources, Ground Water Protection Division LR 18: (July 1992).

§1305. Applicability

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

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

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

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

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

§1307. Definitions

Assessment—planning, data gathering and reporting, and other activities used to generate a report which appraises groundwater contamination and draws conclusions as to the need for further assessment and/or corrective action.

Assessment Oversight—departmental review and evaluation of a facility's assessment activities.

Corrective Action Oversight—departmental review and evaluation of corrective action plans and of remedial actions undertaken to restore the quality of contaminated groundwater.

Corrective Action Plan—a plan which details a schedule of remedial actions that will restore the quality of contaminated groundwater.

Non-Regulated Facility—a facility which is not classified as a solid or hazardous waste facility but under which groundwater contamination has been detected.

Regulated Unit—a solid waste facility or a hazardous waste facility under which groundwater contamination has been detected.

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

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

§1309. Groundwater Protection Fees

A. Assessment Oversight (Annual)

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

Hazardous Waste Facilities \$7,500

Solid Waste Facilities \$5,000

Non-Regulated Facilities \$2,500

B. Corrective Action Oversight (Annual)

The fee listed below covers the cost of reviewing, evaluating and approving plans and/or actions to clean-up

groundwater that has been contaminated by a facility.

Hazardous Waste Facilities	\$ 10,000
Solid Waste Facilities	\$ 7,500
Non-Regulated Facilities	\$ 2,500

C. Annual Report Review Fee

The fee listed below covers the cost of reviewing the groundwater annual report required by both the Hazardous and Solid Waste Regulations.

Hazardous Waste Facilities	\$ 1,000
Solid Waste Facilities	\$ 250
Non-Regulated Facilities	\$ 250

D. Groundwater Monitoring Systems Installation

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

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

E. Groundwater Monitoring Systems Surveillance Fee (Annual)

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

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

F. Facility Inspection Fee (Annual)

The fee listed below covers the cost of inspecting the various facilities to assure compliance with the groundwater protection aspects of the facilities' permits.

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

G. Oversight of Abandonment Procedures

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

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

H. Maximum Total Fee per Facility

The maximum fee which can be assessed a facility under these regulations is \$30,000.

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

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

§1311. Method of Payment

All fee payments shall be made by check, draft or money order payable to the Department of Environmental Quality, and mailed to the department at the address provided on the invoice. Unless otherwise provided herein, all invoices will have a due date that is 30 days from the date of the receipt.

AUTHORITY NOTE: Promulgated in accordance with

R.S. 30:2001 et seq.

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

§1313. Late Fee

Fees not received within 15 days of the due date will be subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

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

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

§1315. Failure to Pay

The prescribed application fee or annual fee as provided herein will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration or variance.

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

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

James B. Thompson, III
Assistant Secretary

RULE

**Department of Environmental Quality
Office of Water Resources**

**Water Pollution Control Fee System
(WP11) (LAC 33:IX.Chapter 13)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., particularly LA R.S. 30:2074, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary has amended the Water Pollution Control Regulations, LAC 33:IX.Chapter 13, (Log WP11).

The Louisiana Water Discharge Permit annual fees are calculated by multiplying the rating points times the rate factor, currently \$170.63. The proposed rule would create a special category of permittee, municipal operators, to which a rate factor of \$97.50 would apply. All other operators would continue to pay fees based on the \$170.63 per rating point rate factor. The proposed rule defines fee amounts for "minor" modifications to existing permits, needed to reflect agency time and resources involved in processing the permit actions. Adjustments to the pollutant-discharge points assessments are proposed which will result in charging larger non-municipal operators a more equitable share based on their proportional contributions to the total discharge to the state waters.

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 13. Louisiana Water Pollution Control Fee System Regulation

§1301. Scope and Purpose

It is the purpose of these regulations to establish a fee system for funding the operation and activities of the Office of Water Resources of the Department of Environmental Quality in accordance with the Louisiana Environmental Quality Act. R.S. 30:2001 et seq.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources LR 11:534 (May 1985), amended LR 18: (July 1992).

§1307. Definitions

All terms used in these regulations, unless the context otherwise requires or unless specifically defined in the Louisiana Environmental Quality Act, or in substantive regulations promulgated by the secretary of the Department of Environmental Quality, shall have their usual meaning. In addition, for purposes of these regulations, the following definitions apply:

* * *

Annual Fee—the fee which is paid annually based on the state's fiscal year (July 1 to June 30). This fee shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law. R.S. 30:2071 et seq.

* * *

Inactive Facility—any facility which has been permanently closed and inoperative except for minor and essential maintenance activities for a period of at least one year but retains a valid permit to facilitate a potential resumption of operations. Facilities that are temporarily closed for maintenance or turnaround activities or inventory reduction are not considered to be inactive.

* * *

Municipal Facility—any facility operated by the state or a city, town, village, district or parish governing authority for the purpose of providing necessary public services.

New, Modified, or Reissued Permit Fee—the fee applicable to any such permit action.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources LR 11:534 (May 1985), amended LR 18: (July 1992).

§1309. Fee System

A. Applicability

Fees established by these regulations shall be applicable to all facilities subject to regulation under the Louisiana Water Control Law R.S. 30:2071 et seq., including those with no discharge and/or closed system permits, or any federal NPDES permit where permitting authority has been delegated to the department.

B. Annual Fee

1. The annual fee shall be calculated by multiplying the rating points times the rate factor except that the annual fee for each general permit shall be established by the administrative authority as provided below.

2. The rating points shall be computed using the

appropriate Annual Fee Rating Worksheet.

3. The rate factor shall be \$97.50 per rating point for municipal facilities and \$170.63 per rating point for all other facilities.

* * *

5. For new facilities, the annual fee may be prorated to correspond to the start-up date.

6. The annual fee for inactive facilities may be reduced by 50 percent during any fiscal year in which the facility was inactive for the entire fiscal year. In no case shall the fee be reduced below the minimum fee.

C. New Permit Fee

1. A new permit fee shall be paid for issuance of any new or temporary permit.

2. The new permit fee shall be assessed subsequent to the receipt and review of an application or other request for permit action.

3. This fee shall be 20 percent of the calculated annual fee but not less than \$227.50.

D. Modified or Reissued Permit Fee

1. A modified or reissued permit fee shall be paid for any permit action which requires modification or reissuance of an existing permit.

2. The modified or reissued permit fee shall be assessed subsequent to the receipt and review of an application or other request for permit action.

3. This fee shall be 20 percent of the calculated annual fee but not less than \$227.50 for permit actions requiring implementation of the public notice procedure.

4. This fee shall be 10 percent of the calculated annual fee but not less than \$227.50 for all other permit actions.

E. Minimum and Maximum Annual Fee

1. The minimum annual fee shall be \$227.50.

2. The maximum annual fee shall be \$90,000.

F. General Permit Fee

* * *

G. Due Date

* * *

H. Late Payment Penalty

Fees not received within 15 days of the due date will be subject to a late penalty of an additional 10 percent per month of the assessed fee. The late penalty shall be calculated from the actual due date of the invoice.

I. Failure to Pay

Failure to pay the prescribed fees as provided herein will constitute a violation of these regulations and shall subject the person to applicable enforcement actions under the Louisiana Environmental Quality Act including, but not limited to, revocation or suspension of the applicable permit, license, registration or variance.

* * *

K. Annual Fee Rating Worksheet

The annual fee shall be computed using the appropriate Annual Fee Rating Worksheet as provided in LAC 33:IX.1313 or LAC 33:IX.1317. Instructions for completing the appropriate Annual Fee Rating Worksheet are provided in LAC 33:IX.1311 and LAC 33:IX.1315.

* * *

M. Method of Payment

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

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

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

§1311. Instructions For Completing Municipal Facility Annual Fee Rating Worksheet

A. Facility Complexity Designation

* * *

2. From the permit application, determine SIC codes. Also determine processes and products reported. Compare this information to LAC 33:IX.1319 to determine the applicable industrial category and the related complexity designation. When more than one category applies, select the one with the highest complexity designation. Record the SIC code applicable to the category selected in the first SIC code blank and all other reported SIC codes in the second blank. Record the SIC title.

3. Check the applicable complexity designation and record the associated points in the complexity points blank. *NOTE: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.K.2.*

* * *

B. Flow Volume and Type

* * *

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to this office in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:534 (May 1985), amended LR 14:627 (September 1988) LR 18: (July 1992).

§1313. Municipal Facility Annual Fee Rating Worksheet

Invoice No. _____

ANNUAL FEE RATING WORKSHEET

PERMIT NO. _____

1. FACILITY COMPLEXITY DESIGNATION

Primary SIC _____ Other SIC _____

Complexity Designation =

- _____ I (0 points)
- _____ II (10 points)
- _____ III (20 points)
- _____ IV (30 points)
- _____ V (40 points)
- _____ VI (50 points)

COMPLEXITY DESIGNATION POINTS _____

2. FLOW VOLUME AND TYPE

A. Wastewater Type I

Is total Daily Average Discharge greater than 60 mgd?

_____ Yes, then points = 30

_____ No, then

Points = 0.5 X Total Daily Average Discharge (mgd)

Points = 0.5 X _____ = _____

Total Points = _____

B. Wastewater Type II

Is total Daily Average Discharge greater than 5 mgd?

_____ Yes, then points = 50

_____ No, then

Points = 10 X Total Daily Average Discharge (mgd)

Points = 10 X _____ = _____

Total Points = _____

C. Wastewater Type III

Is total Daily Average Discharge greater than 25 mgd?

_____ Yes, then points = 50

_____ No, then

Points = 2 X Total Daily Average Discharge (mgd)

Points = 2 X _____ = _____

Total Points = _____

FLOW VOLUME AND TYPE POINTS _____

3. TRADITIONAL POLLUTANTS

A. BOD or _____

Daily Average Load =

- _____ ≤ 50 lb/day (0 points)
- _____ > 50 - 500 (5 points)
- _____ > 500 - 1000 (10 points)
- _____ > 1000 - 3000 (20 points)
- _____ > 3000 - 5000 (30 points)
- _____ > 5000 lb/day (40 points)

COD or _____

Daily Average Load =

- _____ ≤ 100 lb/day (0 points)
- _____ > 100 - 500 (5 points)
- _____ > 500 - 1000 (10 points)
- _____ > 1000 - 5000 (20 points)
- _____ > 5000 - 10000 (30 points)
- _____ > 10,000 lb/day (40 points)

BOD OR COD DEMAND POINTS _____

(whichever is greater)

B. TSS

Daily Average Load =

- _____ ≤ 100 lb/day (0 points)
- _____ > 100 - 500 (5 points)
- _____ > 500 - 1000 (10 points)
- _____ > 1000 - 5000 (20 points)
- _____ > 5000 - 10000 (30 points)
- _____ > 10,000 lb/day (40 points)

TSS POINTS _____

C. AMMONIA or _____ (Alternative nitrogen parameter used)

Daily Average Load =

- _____ ≤ 200 lb/day (0 points)
- _____ > 200 - 500 (5 points)
- _____ > 500 - 1000 (10 points)
- _____ > 1000 - 5000 (20 points)
- _____ > 5000 - 10000 (30 points)
- _____ > 10,000 lb/day (40 points)

AMMONIA POINTS _____

TOTAL POLLUTANT POINTS _____

4. TEMPERATURE (HEAT LOAD)

Heat Load = Average Summer flow (mgd) X ΔT X 0.00834

where ΔT = Permit Limit (Max. Temp.) - 70°

Heat Load = _____ (mgd) X _____ X

0.00834 = _____ Billion BTU

- Heat Load = _____ ≤ 4 billion BTU (0 points)
- _____ > 4 - 20 billion BTU (5 points)
- _____ > 20-100 billion BTU (10 points)

_____ > 100-200 billion BTU (15 points)
_____ > 200 billion BTU (20 points)

HEAT LOAD POINTS _____

5. POTENTIAL PUBLIC HEALTH IMPACTS

Is the receiving water to which the wastewater is discharged or a water body to which it is a tributary used as a drinking water supply source within 50 miles downstream?

_____ No (0 points)
_____ Yes, then . . . Complexity Designation
_____ I, II (0 points)
_____ III (5 points)
_____ IV (10 points)
_____ V (20 points)
_____ VI (30 points)

POTENTIAL PUBLIC HEALTH IMPACT POINTS _____

6. MAJOR/MINOR FACILITY DESIGNATION

Has your facility been designated a major facility by the administrative authority?

_____ Yes, then Points = 25
_____ No, then

Were effluent limitations assigned to the discharge based on water quality factors in the receiving stream?

_____ No, then Points = 0
_____ Yes, then Points = 5

TOTAL MAJOR/MINOR POINTS _____

TOTAL RATING POINTS ASSIGNED _____

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:534 (May 1985), amended LR 14:628 (September 1988) LR 18: (July 1992).

* * *

§1315. Instructions For Completing Industrial Facility Annual Fee Rating Worksheet

A. Facility Complexity Designation

1. Determine the specific industrial category applicable to the facility.

2. From the permit application, determine SIC codes. Also determine processes and products reported. Compare this information to LAC 33:IX.1319 to determine the applicable industrial category and the related complexity designation. When more than one category applies, select the one with the highest complexity designation. Record the SIC code applicable to the category selected in the first SIC code blank and all other reported SIC codes in the second blank. Record the SIC title.

3. Check the applicable complexity designation and record the associated points in the complexity points blank. *NOTE: Any industrial category not listed in LAC 33:IX.1319 is automatically assigned a Complexity Designation I except under the circumstances noted in LAC 33:IX.1309.K.2.*

4. The SIC codes listed in the tables are not exhaustive and any questions concerning the appropriate SIC code or complexity designation for a particular facility will be decided by the administrative authority.

B. Flow Volume and Type

1. Determine the wastewater type and average discharge volume.

2. Review the permit application to determine the composition of the wastewater discharge(s). If there are multiple discharges, the composite of all discharges should be used. Compare the relative magnitudes of process

wastewater, non-contact cooling water and other wastewaters with the definitions of wastewater types in Table 2 below, and select the appropriate wastewater type (select only one type).

TABLE 2

Types of Wastewater

Wastewaters are divided into three types based on their relative pollution potential.

Description

Type I. Type I wastewaters are relatively uncontaminated. They include non-contact cooling water only, or mixed flows which contain at least 90 percent non-contact cooling water and not more than one mgd of process wastewaters.

Type II. Type II wastewaters are the most contaminated. They include process wastewater flows or any mixed wastewaters containing more than 10 percent process wastewaters or containing more than one mgd of process wastewaters.

Type III. Type III wastewaters include sanitary wastewater, boiler blowdown, recirculating cooling system blowdown, water treatment wastewaters and relatively uncontaminated surface run-off (contaminated surface runoff should be considered process wastewater). Any mixture of these wastewaters is considered Type III. A mixture which includes non-contact cooling water is also Type III unless the non-contact cooling water exceeds 90 percent of the flow (Type I).

3. Determine the total daily average wastewater discharge to the receiving water based upon the information supplied to this office in the permit application. If there are multiple discharges, the total of all daily average discharges should be used. Under the selected wastewater type, where applicable, answer yes or no and complete the formula.

C. Pollutants

1. Review the permit to determine if BOD, COD, and TSS are limited. Points should only be assigned for these parameters if they are limited in the permit. The permit limits used to determine pollutant loads should be those limits currently in effect. Add the daily average load limit for each parameter for all discharges.

2. Check the applicable load range for BOD and/or COD, complete the formula, if applicable, and record the highest associated points in the BOD or COD points blank. In some cases, oxygen demand may be limited by some parameter other than BOD or COD [i.e., ultimate oxygen demand (UOD), total organic carbon (TOC), or total oxygen demand (TOD)]. If this is the case, substitute the alternate parameter for the COD criterion and record the alternate parameter used in the blank indicated.

3. Check the applicable TSS load range, complete the formula, if applicable, and record the associated points.

4. Obtain the latest reported toxic discharge to surface water information for the facility, complete the formula and record the associated points. This information may be updated and the rating revised if the annual report shows a change of at least 10 percent in the amount discharged.

5. Sum the totals A, B, and C and record the total pollutant points in the space provided.

D. Temperature (Heat Load)

1. A heat load should be computed for large thermal discharges. Such discharges are usually indicated by temperature limits in the permit. Computation for a flow less than 10 mgd is unnecessary as it will receive no heat load points.

2. Use maximum temperature limit in the permit (maximum temperature reported in application if not limited in the permit) and subtract 70° to compute T in °F, then determine the daily average heat load during the most critical conditions. This is usually during the summer months when stream temperature and cooling water flow rates are the highest.

3. If larger heat loads are discharged at other time periods because of seasonal operations, the daily average heat load for those periods should be used. The summer flow rate may not be indicated in the permit application. It can be determined from Discharge Monitoring Reports.

4. Compute the heat load using the computed T and the selected flow rate. Check the applicable heat load range and record the associated points in the heat load points blank.

E. Potential Public Health Points

1. Determine if the receiving water is used for a municipal water supply.

2. Review the complexity designation assigned in LAC 33:IX.1311.A. If groups I or II were assigned, check the first complexity designation blank, record 0 points in the public health points blank and go to the next instruction.

3. If a higher complexity designation (III, IV, V, or VI) was assigned, then a determination if the receiving water is used as a drinking water supply source must be made. To qualify for points under this criterion, either the receiving water to which wastewater is discharged or a water body to which the receiving water is tributary must be used as a drinking water supply source within 50 miles downstream.

4. Check the appropriate complexity designation blank and record associated points in the public health points blank.

F. Major/Minor Facility Designation

1. Determine if the facility has been designated a major facility by the administrative authority. If the answer is YES, then check the appropriate blank and assign 25 points. If the answer is NO, then proceed to the next part.

2. Determine if the permitted effluent limitations assigned were based on water quality factors in the receiving water. Check the appropriate answer and assign the points required.

G. Total Rating Points

Sum the rating points assigned to each of the six sections and record the total in the total rating points blank.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 18: (July 1992).

§1317. Industrial Facility Annual Fee Rating Worksheet

Invoice No. _____

ANNUAL FEE RATING WORKSHEET

PERMIT NO. _____

1. FACILITY COMPLEXITY DESIGNATION

Primary SIC _____ Other SIC _____

Complexity Designation = _____

- _____ I (0 points)
- _____ II (10 points)
- _____ III (20 points)
- _____ IV (30 points)
- _____ V (40 points)
- _____ VI (50 points)

COMPLEXITY DESIGNATION POINTS _____

2. FLOW VOLUME AND TYPE

A. Wastewater Type I

Is total Daily Average Discharge greater than 400 mgd?

_____ Yes, then points = 200

_____ No, then

Points = 0.5 X Total Daily Average Discharge (mgd)

Points = 0.5 X _____ = _____

Total Points = _____

B. Wastewater Type II

Points = 10 X Total Daily Average Discharge (mgd)

Points = 10 X _____ = _____

Total Points = _____

C. Wastewater Type III

Points = 2 X Total Daily Average Discharge (mgd)

Points = 2 X _____ = _____

Total Points = _____

FLOW VOLUME AND TYPE POINTS _____

3. POLLUTANTS

A. BOD or _____

Daily Average Load = _____

_____ ≤ 50 lb/day (0 points)

_____ > 50 - 500 (5 points)

_____ > 500 - 1000 (10 points)

_____ > 1000 - 3000 (20 points)

_____ > 3000 - 5000 (30 points)

_____ > 5000 lb/day (calculate)

Points = 0.008 X Daily Average Load (lbs.)

Points = 0.008 X _____ = _____

COD or _____

Daily Average Load = _____

_____ ≤ 100 lb/day (0 points)

_____ > 100 - 500 (5 points)

_____ > 500 - 1000 (10 points)

_____ > 1000 - 5000 (20 points)

_____ > 5000 - 10000 (30 points)

_____ > 10,000 lb/day (calculate)

Points = 0.004 X Daily Average Load (lbs.)

Points = 0.004 X _____ = _____

BOD OR COD DEMAND POINTS _____

(whichever is greater)

B. TSS

Daily Average Load = _____

_____ ≤ 100 lb/day (0 points)

_____ > 100 - 500 (5 points)

_____ > 500 - 1000 (10 points)

_____ > 1000 - 5000 (20 points)

_____ > 5000 - 10000 (30 points)

_____ > 10,000 lb/day (calculate)

Points = 0.004 X Daily Average Load (lbs.)

Points = 0.004 X _____ = _____

TSS POINTS _____

C. TOXICS

Total Annual Discharge to Water = _____ (lbs.)

Points = 0.01 X Annual discharge (lbs.)

Points = 0.01 X _____ = _____

TOXIC POINTS _____

TOTAL POLLUTANT POINTS _____

4. TEMPERATURE (HEAT LOAD)

Heat Load = Average Summer flow (mgd) X ΔT X 0.00834

where ΔT = Permit Limit (Max. Temp.) - 70°

Heat Load = _____ (mgd) X _____ X

0.00834 = _____ Billion BTU

Heat Load = _____ ≤ 4 billion BTU (0 points)

_____ > 4 - 20 billion BTU (5 points)

- _____ > 20-100 billion BTU (10 points)
- _____ > 100-200 billion BTU (15 points)
- _____ > 200 billion BTU (20 points)

HEAT LOAD POINTS

5. POTENTIAL PUBLIC HEALTH IMPACTS

Is the receiving water to which the wastewater is discharged or a water body to which it is a tributary used as a drinking water supply source within 50 miles downstream?

- _____ No (0 points)
- _____ Yes, then . . . Complexity Designation
 - _____ I, II (0 points)
 - _____ III (5 points)
 - _____ IV (10 points)
 - _____ V (20 points)
 - _____ VI (30 points)

POTENTIAL PUBLIC HEALTH IMPACT POINTS

6. MAJOR/MINOR FACILITY DESIGNATION

Has your facility been designated a major facility by the administrative authority?

- _____ Yes, then Points = 25
- _____ No, then

Were effluent limitations assigned to the discharge based on water quality factors in the receiving stream?

- _____ No, then Points = 0
- _____ Yes, then Points = 5

TOTAL MAJOR/MINOR POINTS

TOTAL RATING POINTS ASSIGNED

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources in LR 11:534 (May 1985), amended LR 18: (July 1992).

§1319. SIC Code Complexity Tables

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, in LR 11:534 (May 1985), amended LR 14:628 (September 1988), LR 18: (July 1992).

James B. Thompson, III
Assistant Secretary

RULE

**Office of the Governor
Office of Elderly Affairs**

The Governor's Office of Elderly Affairs (GOEA) has adopted the following rule effective July 20, 1992. The rule was published as a notice of intent in the April 20, 1992 (Vol. 18, Page 431) *Louisiana Register*.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter E. Uniform Service Requirements

§1235. Federally Funded Multipurpose Senior Centers

A. Definition and Standards

1. "Multipurpose Senior Center"—a community or neighborhood facility for the organization and provision of a

broad spectrum of services including health, social, and nutritional activities for older persons.

2. The minimum standards for a multipurpose senior center shall be as provided in Subsection C of §1233 of this Manual.

B. Multipurpose Senior Center Grants

1. By April 1, each year, awards for Older Americans Act (OAA) Title III funds for multipurpose senior centers may be made by area agencies on aging to public or private non-profit agencies for the following purposes:

a. acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a multipurpose senior center;

b. constructing a facility, including a mobile facility: for use as a multipurpose senior center, subject to the provision of Older Americans Act - Title III Regulations;

c. all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

2. The area agency must ensure that communities wishing to develop a multipurpose senior center provide seniors the opportunity to have input into the development of plans and proposals.

3. Area agencies shall submit all renovation, acquisition and construction grants to the state agency for prior approval before awarding funds.

4. Each area agency shall monitor, at least annually, the utilization of multipurpose senior centers and maintain records reflecting the grants awarded and a period of commitment.

C. Approval of Renovation, Acquisition and Construction Grant Applications

1. The area agency must provide the following assurances in its request for approval of renovation, acquisition and construction grant applications:

a. for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the commissioner waives the requirement of Paragraph 307 (a) (14) of the Act;

b. sufficient funds will be available to meet the non-federal share of the cost of acquisition or construction of the facility;

c. sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed;

d. the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

e. in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

f. the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968; and

g. any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the secretary of

labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a--276A-5, commonly known as the Davis-Bacon Act), and the secretary of labor shall have, with respect to the labor standards specified in this Subparagraph the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 State. 1267), and Section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

2. In making awards for multipurpose senior center activities, the area agency shall ensure:

a. that the facility complies with all applicable state and local health, fire, safety, building, zoning and sanitation laws, ordinances or codes; and

b. the technical adequacy of any proposed alteration or renovation of a multipurpose senior center assisted under Title III, by requiring that any alteration or renovation of a multipurpose senior center that affects the load bearing members of the facility is structurally sound and complies with all applicable local or state ordinances, laws, or building codes.

3. Renovation, acquisition and construction grant application proposals shall be thoroughly prepared with detailed floor plans drawn to scale and the appropriate documentation relative to programming at the facility must meet handicap accessibility requirements, fire and safety codes and be approved by the health department and dietitian (if nutrition program involved).

D. Reporting Requirements

1. By July 31, each year, the area agency must submit to the state agency a report of:

a. all new renovation, acquisition or construction grants and awards to support multipurpose senior center programming; and

b. a list of facilities being monitored in the planning and service area.

2. The area agency must notify the state agency within 30 days, if any facility ceases to be used as a multipurpose senior center.

3. Recipients of awards must immediately file the following Notice of Record with the appropriate unit of local government upon purchase or completion of construction of the facility:

This is to serve as notice to all potential sellers, purchasers, transferers and recipients of a transfer of the real property described below as to the federal government's reversionary interests as set forth in Section 312 of the Older Americans Act of 1965, as amended, 42 U.S.C. 3030b, which have arisen as a result of (grantee's name) receipt and use of Department of Health and Human Services' grant funds in connection with the purchase or construction of said property. The property to which this notice is applicable is (address) and identified as Parcel (insert appropriate number(s)) in the books and records of (insert appropriate name of local unit of government's recording agency). Said real property is also described as: (insert description provided in survey). Further information as to the federal government's interests referred to above can be obtained from: (name and address of Area Agency on Aging).

After the notice has been recorded, the grantee shall provide the Area Agency on Aging with a copy. The area agency shall provide the state agency with a copy.

E. Recapture of Payments

1. If within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under Title III of the Act:

a. the owner of the facility ceases to be a public or nonprofit private agency or organization; or

b. the facility ceases to be used for the purposes for which it was acquired (unless the commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so) the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved projects or projects) the same ratio as the amount of such federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

2. Renovated multipurpose senior centers must be utilized for at least five years or the funds which have been paid under Title III must be returned to the state agency.

3. In returning recaptured funds, the state shall use procedures that are ordinarily used in an audit disallowance.

F. Waiver of Repayment

1. Under certain circumstances, area agencies may request a waiver of the repayment of funds from the state agency. The written request should include an historical background of the senior center and a description of the nature of the circumstances that led the area agency to request a waiver. Information provided should include the total OAA funds awarded, an estimate of the total federal share of the center's value when it ceased to be used for program purposes, and the date at which circumstances made a waiver advisable. The area agency must provide assurances that the repayment amount will be used for services or programs to benefit the elderly. Appropriate documentation which supports the request for a waiver should be either submitted with the request or made available as needed.

2. GOEA, if it deems necessary, will forward the request to the commissioner of the Administration on Aging (AoA) through the AoA Regional Office. The AoA regional program director will review the request and forward it with a recommendation to the commissioner. If the commissioner determines that there is justification for releasing the applicant or other owner from the obligation to return the federal funds, the commissioner will inform the state in writing that a waiver has been granted. If a waiver is not justified the commissioner will notify the state in writing that a waiver has been denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, 45 CFR 1321.75, OAA Sec. 307, 312, and 321.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 18: (July 1992).

Bobby Fontenot
Director

RULE

**Office of the Governor
Patient's Compensation Fund Oversight Board**

**Title 37
INSURANCE**

**Part III. Patient's Compensation Fund
Oversight Board**

Chapter 5. Enrollment with the Fund

§507. Financial Responsibility: Self-Insurance

* * *

C.1 The following bonds and securities shall be deemed approved by the board for purposes of the deposit required by this Section:

a. bonds or securities not in default as to principal or interest which are the direct obligations of, or which are secured or guaranteed as to principal and interest by full faith and credit of the United States, any state or territory of the United States, or the District of Columbia;

b. government sponsored AAA rated securities which carry an implied guarantee from the United States Government;

c. bonds or evidence of indebtedness not in default as to principal or interest which are the direct obligations of, or which are secured or guaranteed as to principal and interest by the issuing body, the state, or political subdivision of this state, or any other state or territory of the United States or the District of Columbia;

d. the bond of an authorized surety company engaged in business in the state of Louisiana which has an A.M. Best rating of A + VIII or better. In addition, the company should meet the stated minimum rating criteria for two of the following rating services:

Standard and Poor AA
Duff and Phelps AA
Moody's Aa2

e. an unconditional letter of credit with an automatic renewal provision where the issuing bank carries a commercial paper rating of P-1 by Moody's and/or an A-1 by Standard and Poor;

f. an escrow account in the name of Patient's Compensation Fund where the issuing bank carries a commercial paper rating of P-1 by Moody's and/or an A-1 by Standard and Poor.

C.2. In addition to the above, a health care provider may apply to the board for approval of any other security which, if approved by the board, shall constitute proof of financial responsibility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:171 (February 1992), amended LR 18: (July 1992).

§509. Financial Responsibility: Self-Insurance Trusts

* * *

B.1. The following bonds and securities shall be deemed approved by the board for purposes of the deposit required by this Section:

a. bonds or securities not in default as to principal or interest which are the direct obligations of, or which are secured or guaranteed as to principal and interest by full faith and credit of the United States, any state or territory of the

United States, or the District of Columbia;

b. government sponsored AAA rated securities which carry an implied guarantee from the United States Government;

c. bonds or evidence of indebtedness not in default as to principal or interest which are the direct obligations of, or which are secured or guaranteed as to principal and interest by the issuing body, the state, or political subdivision of this state, or any other state or territory of the United States or the District of Columbia;

d. the bond of an authorized surety company engaged in business in the state of Louisiana which has an A.M. Best rating of A + VIII or better. In addition, the company should meet the stated minimum rating criteria for two of the following rating services:

Standard and Poor AA
Duff and Phelps AA
Moody's Aa2

e. an unconditional letter of credit with an automatic renewal provision where the issuing bank carries a commercial paper rating of P-1 by Moody's and/or an A-1 by Standard and Poor;

f. an escrow account in the name of Patient's Compensation Fund where the issuing bank carries a commercial paper rating of P-1 by Moody's and/or an A-1 by Standard and Poor.

B.2. In addition to the above, a health care provider may apply to the board for approval of any other security which, if approved by the board, shall constitute proof of financial responsibility.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.44D.(3).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Patient's Compensation Fund Oversight Board, LR 18:172 (February 1992), amended LR 18: (July 1992).

Suanne Grosskopf
Executive Director

(Editor's Note: Rules of the Department of Health and Hospitals, Board of Dentistry, were published in error in the June 20, 1992 *Louisiana Register*, pages 611 through 618. The Board of Dentistry rules as promulgated on the following pages are the correct versions, effective July 20, 1992.)

RULE

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has adopted the following rules and regulations:

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XXXIII. Dental Health Professions**

Chapter 7. Dental Hygienists

§706. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination adminis-

tered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. satisfactorily passing an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the Jurisprudence affecting same;

2. is currently licensed in another state as defined in R.S. 37:751(I);

3. has been in active practice or full-time dental hygiene education for a minimum of one year immediately prior to applying for licensure;

4. is endorsed as being in good standing by the State Board of Dentistry in the state of current practice and all prior states of licensure and practice;

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last three years;

6. has never been convicted of a felony;

7. has no pending criminal charges against him/her;

8. has never been charged with and found guilty of or entered into a consent agreement with any state board of dentistry to any charge affecting his/her ability to practice dental hygiene or showing evidence of unprofessional conduct;

9. has paid all costs and fees (non-refundable);

10. has fully completed required application form with all supporting data and certification of competency and good character;

11. has appeared for a personal interview before the board;

12. has submitted two recent passport type color photographs;

13. has all units of time accounted for;

14. has provided true copy of diploma(s) and/or national board examination grades and transcript of dental hygiene school grades;

15. has furnished three letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letter-head stationery from said organization;

16. possesses a current certificate in the American Heart Association (A.H.A.) cardiopulmonary resuscitation health care provider course;

17. is a citizen or permanent resident of the United States;

18. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a certificate of health to the board from a qualified licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§707. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials

A. The following procedures shall be utilized by the board in determining the professional ability, conduct, and character of all applicants for a dental hygiene license in Louisiana by licensure by credentials:

1. information from the National Practitioner Data Bank and/or the American Association of Dental Examiners' Clearinghouse for Disciplinary Information;

2. questioning under oath;

3. results of peer review reports from constituent societies of the American Dental Hygienists' Association and the constituent societies of the American Dental Association in all states wherein the applicant is or has been licensed, and/or federal dental hygiene services;

4. drug testing if reasonable cause is presented;

5. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

6. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials. False or fraudulent statements or material omission will result in denial of licensure or suspension of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has amended the following rules and regulations.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professions

Chapter 3. Dentists

§301. Listing as Dental Specialists

A. Dentists who have not completed a post-doctoral training program in a recognized specialty of dentistry under educational standards approved by the Louisiana State Board of Dentistry, but who advertise a field of practice for which approved educational standards exist, must advertise their field of practice in such a way that the public is not misled into believing that the dentist has met the educational requirements for a certified specialist.

B. The board has reviewed and approved the Standards for Advanced Specialty Education Programs set forth by the Commission on Dental Accreditation of the American Dental Association in following the specialties:

C. Definitions

Dental Public Health - the science and art of preventing and controlling dental diseases and promoting dental health through organized community efforts. It is that form of dental practice which serves the community as a patient rather than the individual. It is concerned with the dental health education of the public, with applied dental research, and with the administration of group dental care program, as well as the prevention and control of dental diseases on a community basis. Implicit in this definition is the requirement that the specialist have broad knowledge and skills in public

health administration, research methodology, the prevention and control of oral diseases, the delivery and financing of oral health care, and the identification and development of resources to accomplish health goals.

Endodontics - the branch of dentistry that is concerned with the morphology, physiology, and pathology of the human dental pulp and periradicular tissues. Its study and practice encompass the basic clinical sciences including biology of the normal pulp; the etiology, diagnosis, prevention, and treatment of diseases and injuries of the pulp; and associated periradicular condition.

Oral and Maxillofacial Surgery - the specialty of dentistry which includes the diagnosis, surgical and adjunctive treatment of diseases, injuries and defects involving both the functional and esthetic aspects of the hard and soft tissues of the oral and maxillofacial region.

Oral Pathology - the specialty of dentistry and discipline of pathology which deals with the nature, identification, and management of diseases affecting the oral and maxillofacial regions. It is a science that investigates the causes, processes and effect of these diseases. The practice of oral pathology includes research; diagnosis of diseases using clinical, radiographic, microscopic, biochemical, or other examinations; and management of patients.

Orthodontics - the area of dentistry concerned with the supervision, guidance and correction of the growing or mature dentofacial structures, including those conditions that require movement of teeth or correction of malrelationships and malformations of their related structures and the adjustment of relationships between and among teeth and facial bones by the application of forces and/or the stimulation and redirection of functional forces within the craniofacial complex. Major responsibilities of orthodontic practice include the diagnosis, prevention, interception and treatment of all forms of malocclusion of the teeth and associated alterations of their surrounding structures; the design, application and control of functional and corrective appliances; and the guidance of the dentition and its supporting structures to attain and maintain optimum occlusal relations in physiological and esthetic harmony among facial and cranial structures.

Pediatric Dentistry - the practice, teaching of and research in comprehensive, preventative and therapeutic oral health care of children from birth through adolescence. It shall be construed to include care for special patients beyond the age of adolescence who demonstrate mental, physical and/or emotional problems.

Periodontics - the branch of dentistry which deals with the diagnosis and treatment of the supporting and surrounding tissues of the teeth or their substitutes. The maintenance of the health of these structures and tissues, achieved through periodontal procedures, is also considered to be the responsibility of the periodontist. Scope shall be limited to preclude permanent restorative care.

Prosthodontics - the branch of dentistry pertaining to the restoration and maintenance of oral function, comfort, appearance and health of the patient by the restoration of the natural teeth and/or the replacement of missing teeth and contiguous oral and maxillofacial tissue with artificial substitutes.

D. Anyone not qualified for the specialties listed in Subsection C must disclose "General Dentistry" or "Family Dentistry" in print larger than any field of practice or service.

E. In radio or television advertising, the disclosure

must be made in the same mode (visual or audio) as the representation concerning the field(s) of practice. Audio disclosures must be made at the same decibel level as the representation concerning the field(s) of practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B)

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Dentistry, December 1970, amended LR 13:179 (March 1987), amended by Department of Health and Hospitals, Board of Dentistry, LR 15:966 (November 1989), LR 18: (July 1992).

§304. Address of Dental Practice

A. Each dentist shall inform the Louisiana State Board of Dentistry of all office addresses at which the dentist practices dentistry in conformity with R.S. 37:770 B. Failure of a dentist to notify the board within 30 days of any office move or relocation will result in the imposition of any one or more of the penalties set forth in R.S. 37:780 B.

B. Within 30 days following the abandonment of any office located within Louisiana, all signs or references to the practice of dentistry at said former office by the dentist shall be removed. This pertains to all references whether attached or not attached to the abandoned premises. A licensee's failure to remove said signs in accordance with this Section will result in the imposition of any one or more of the penalties set forth in R.S. 37:780 B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 15:965 (November 1989), amended LR 18: (July 1992).

§306. Requirements of Applicants for Licensure by Credentials

A. Before any applicant is awarded a license according to his/her credentials in lieu of an examination administered by the board, said applicant shall provide to the board satisfactory documentation evidencing:

1. satisfactorily passing an examination administered by the Louisiana State Board of Dentistry testing the applicant's knowledge of the Louisiana Dental Practice Act and the Jurisprudence affecting same;

2. is currently licensed in another state as defined in R.S. 37:751(I);

3. has been in active practice or full-time dental education for a minimum of three years immediately prior to applying for licensure; or has completed a two-year general dentistry residency program or training in one of the eight board-recognized dental specialties as defined in §301 of this Chapter within three years immediately prior to applying for licensure by credentials;

4. is endorsed as being in good standing by the State Board of Dentistry in the state of current practice and all prior states of licensure and practice;

5. has not failed the clinical examination of the Louisiana State Board of Dentistry within the last three years;

6. has never been convicted of a felony;

7. has no pending criminal charges against him/her;

8. has never been charged with and found guilty of or entered into a consent agreement with any State Board of Dentistry to any charge affecting his ability to practice dentistry or showing evidence of unprofessional conduct;

9. has paid all costs and fees (non-refundable);

10. has fully completed required application form with

all supporting data and certification of competency and good character;

11. has appeared for a personal interview before the board;

12. has submitted Drug Enforcement Administration registration certificate number and state narcotics license number in all states wherein same are held or have been held;

13. has submitted two recent passport type color photographs;

14. has all units of time accounted for;

15. has provided true copy of diploma(s) and/or national board examination grades;

16. has furnished three letters of recommendation from professional associates, i.e. associations, boards, or prior employers listed on application for licensure on letter-head stationery from said organization;

17. possesses a current certificate in the American Heart Association (A.H.A.) cardiopulmonary resuscitation health care provider course;

18. is a citizen or permanent resident of the United States;

19. is free of any communicable or contagious disease, including but not limited to Human Immunodeficiency Virus and Hepatitis B Virus, and provide a certificate of health to the board from a qualified licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§307. Criteria to be Utilized to Determine Professional Competence, Conduct and Ethics of an Applicant Seeking Licensure by Credentials

A. The following procedures shall be utilized by the board in determining the professional ability, conduct, and character of all applicants for a dental license in Louisiana by licensure by credentials:

1. information from the National Practitioner Data Bank and/or the American Association of Dental Examiners' Clearinghouse for Disciplinary Information;

2. questioning under oath;

3. results of peer review reports from constituent societies of the American Dental Association or in all states wherein the applicant is or has been licensed, and/or federal dental services;

4. drug testing if reasonable cause is presented;

5. background check for criminal or fraudulent activities or conduct reflecting upon one's professional conduct or ability;

6. the board reserves the right to conduct investigations into any and all information provided to satisfy statutory or regulatory requirements for licensure by credentials. False or fraudulent statements or material omission will result in denial of licensure or suspension of licensure if discovered after issuance of a license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§308. Licensure by Credentials for Those Applicants Possessing D.D.S., D.M.D. and/or M.D. Degrees.

A. The board shall issue a license to an applicant without the necessity of further examination except as required by R.S. 37:761, if it is determined that the applicant meets the requirements of §306 of this Chapter or:

1. is a graduate, with either a D.D.S. or D.M.D., of an accredited dental school or college or of a dental department of a university approved by the board and accredited by the Commission on Dental Accreditation of the American Dental Association; and

2. is licensed to practice dentistry in another state as defined in R.S. 37:751(l); and

3. has successfully completed a graduate training program in a recognized specialty branch of dentistry; or has completed a residency in general dentistry as recognized by the American Dental Association; and

4. is currently duly licensed to practice medicine in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Dentistry

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has adopted the following rule and regulations:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XXXIII. Dental Health Professions

Chapter 1. General Provisions

§104. Display of License

A. All Louisiana licensees holding either a dental or dental hygiene license shall display their license in full and open view for all patients to observe along with all current renewal permits of said license.

B. All certificates or permits authorizing the administration of anesthesia, analgesia or sedation shall also be displayed in full and open view in close proximity to those licenses and renewal certificates required by this rule to be kept in open and full view for the public to observe.

C. When licensees provide dental services in more than one facility, a copy of those licenses and/or certificates shall suffice in place of the original and said copy shall be displayed in full and open view for all patients to see.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

C. Barry Ogden
Executive Director

RULE

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act, R.S. 37:760(8), the Board of Dentistry has amended the following rules and regulations:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Professionals

Chapter 4. Fees and Costs

Subchapter C. Fees for Dentists

§415. Licenses, Permits and Examinations

A. For processing applications for licensure, permits and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental applicant \$400
- 2. Temporary dental license \$100
- 3. Issuance of a restricted dental license (excluding advanced education students and dental residents) . . . \$200
- 4. Annual renewal fee for dental license \$150
- 5. Annual renewal fee for restricted dental license (excluding advanced education students and dental residents) \$150
- 6. Replacement or duplicate dental license, certificate, temporary permit. \$ 50
- 7. Delinquency fee in addition to renewal fee for any dental license \$250
- 8. Reinstatement of a license which has been suspended, revoked or which has lapsed by non-renewal . . \$500
- 9. Annual processing fee for application for retired dentist classification \$ 25
- 10. Restricted dental license, advanced education students and dental residents:
 - a. For period July 1 - December 31 \$100
 - b. For each full year
(January 1 - December 31) thereafter \$200
 - c. For period January 1 - June 30 \$100
- 11. Dental application and licensure by credentials (non-refundable) \$1,500

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:60(B) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18: (July 1992).

Subchapter D. Fees for Dental Hygienists

§419. Licenses, Permits and Examinations

A. For processing applications for licensure, permits and examinations, the following fees shall be payable in advance to the board:

- 1. Examination and licensing of dental hygienist applicant. \$200
- 2. Temporary dental hygienist permit \$100
- 3. Annual renewal fee for dental hygienist license \$ 50
- 4. Replacement or duplicate dental hygienist license, certificate, temporary permit. \$ 50
- 5. Delinquency fee in addition to renewal fee for any dental hygienist license \$100
- 6. Reinstatement of a dental hygienist license which has been suspended, revoked or which has lapsed by non-renewal \$250

7. Annual processing fee for application for nonpracticing dental hygienist status \$ 25

8. Dental hygiene application and licensure by credentials (non-refundable) \$600

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760 (8) and R.S. 37:768.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Board of Dentistry, LR 14:792 (November 1988), amended LR 16:566 (June 1990), LR 18: (July 1992).

C. Barry Ogden
Executive Director

RULE

**Department of Health and Hospitals
Board of Dentistry**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and the Dental Practice Act, R.S. 37:760(8) and R.S. 37:1747, the Board of Dentistry has adopted the following rule and regulation:

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII: Dental Health Professions

Chapter 12. Transmission Prevention of Hepatitis B Virus and Human Immunodeficiency Virus

§1201. Scope of Chapter

As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for dental health care providers including, but not limited to, dentists and dental hygienists to protect the public from the risk of the transmission of the Hepatitis B Virus (HBV) and the Human Immunodeficiency Virus (HIV) to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1202. Definitions

As used in this Chapter, the following terms shall have the meanings specified:

AIDS - acquired immune deficiency syndrome, as determined by the Federal Centers for Disease Control.

Board - Louisiana State Board of Dentistry.

Dental Health Care Provider - any dentist, dental hygienist, or other personnel working under the supervision of a dentist in a dental health care setting who may perform exposure-prone procedures during patient care.

Disinfect - to inactivate virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (e.g. bacterial endospores) on inanimate objects.

Exposure-Prone Procedure - an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly

confined anatomic site, or any other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the dental health care provider and the blood or body fluids of the patient.

Function Ancillary to an Invasive Procedure - the preparation, processing, or handling of blood, fluids, tissues or instruments which may be introduced into or come into contact with any body cavity, internal organ, subcutaneous tissue, submucosal tissue, mucus membrane or percutaneous wound of the human body in connection with the performance of an invasive procedure.

HBV - the Hepatitis B Virus.

HBV Seronegative - a condition where one has been HBV seropositive but is no longer infectious under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

HBV Seropositive - a condition where one has developed antigens sufficient to diagnosis seropositivity to HBV evidencing infectability under the criteria of the Federal Centers for Disease Control or the Association of State and Territorial Public Health Laboratory Directors.

HIV - any strain of the human immunodeficiency virus.

HIV Seropositive - a condition where one has developed antibodies sufficient to diagnose seropositivity to HIV under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors.

Invasive Procedure - any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

Sterilization - the process by which all forms of microorganisms within an environment are totally destroyed.

Universal Precautions - those generally accepted infection control practices, principals, procedures, techniques and programs as recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV from a dental health care provider to a patient, from a patient to a dental health care provider, or from a patient to a patient, as such recommendations may be amended or supplemented from time to time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1203. Universal Precautions

All dental health care providers who perform invasive procedures or perform functions ancillary to invasive procedures shall in the performance of any such procedures or functions, strictly observe recognized universal precautions as currently recommended by the Federal Centers for Disease Control to minimize the risk of transmission of HBV or HIV.

In the event that the Federal Centers for Disease Control issue a new version of their recommendations for universal precautions, the board will take into consideration the nature of the changes to those recommendations and establish a reasonable period of time in which dental health care providers have to comply with any new or altered recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1204. Investigations

In order to ensure compliance with this Chapter, the board shall conduct random announced inspections upon providing 48 hour notice. Notice may be provided by verbal, written, telephone or with other telecommunication means. Refusal by any licensee of access to licensee's premises for the purpose of conducting said inspection shall constitute a violation of R.S. 37:776(A)(24) and R.S. 37:775(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1205. Prohibitions and Restrictions

Except as may be permitted pursuant to §1206, §1207.G and §1210 of this Chapter, a dental health care provider who is seropositive for HIV or HBV, or who otherwise knows or should know that he or she carries and is capable of transmitting HIV or HBV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1206. Exception; Informed Consent of Patient

A. Notwithstanding the prohibition of §1205 of this Chapter, a seropositive dental health care provider may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met:

1. The dental health care provider has affirmatively advised the patient, or the patient's lawfully authorized representative, that the dental health care provider has been diagnosed as HIV seropositive and/or HBV seropositive as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the dental health care provider's transmission of HIV and/or HBV to the patient during an exposure-prone invasive procedure. Such information shall be communicated personally by the dentist to the patient or the patient's lawfully authorized representative.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the dental health care provider with respect to the patient;

b. an acknowledgement that the advice required by Subsections A.1 and 2 hereof have been given to and understood by the patient or the patient's lawfully authorized representative; and

c. the consent of the patient or the patient's lawfully authorized representative, to the performance of or participation in the designated procedure by the dental health care provider.

4. The dental health care provider's HIV and/or HBV seropositivity has been affirmatively disclosed to each dental

health care provider or other health care personnel who may participate or assist in the exposure-prone procedure.

B. Consent given pursuant to Subsection A of this Section may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the dental health provider expressing an intent to revoke, rescind or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1207. Self-Reporting

A. Any dental health care provider who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HIV seropositive or HBV seropositive shall be required to give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Within 90 days of the effective date of this Chapter, any dental health care provider who has previously been verified as being HIV seropositive or HBV seropositive shall give notice of such diagnosis to the board on a reporting form supplied by the board.

C. Within 10 days from the date on which a dental health care provider has been verified as being HIV seropositive or HBV seropositive, the dental health care provider shall give notice of such diagnosis to the board on a reporting form supplied by the board which shall be mailed to the executive director of the board, marked "personal and confidential," by registered or certified mail.

D. An applicant for licensure as a dental health care provider who at the time of application is verified as being HIV seropositive or HBV seropositive shall acknowledge such diagnosis in his or her written application to the board.

E. Aforementioned reporting forms will be provided to each licensee with his or her license and additionally with his or her annual license renewal application, or upon request.

F. The seropositive dental health care provider must submit to evaluation within 15 working days of his notification by the board ordering said dental health care provider to be examined by experts selected by the board, and those experts must complete and submit their reports to the executive director of the board with 15 days following their examination.

G. Reports from two physicians and two laboratories evidencing change in the dental health care provider's serostatus shall be submitted to the executive director for board evaluation of the change of serostatus when any dental health care provider previously verified as HIV seropositive who becomes HIV seronegative.

H. Any dental health care provider or applicant for licensure who is required under this Section to report his/her HIV or HBV seropositive status and fails or neglects to provide notice as set forth in this Section shall be deemed in violation of R.S. 37:776(A)(1), (3), (7), (12), (16), (17), (20) and (24), and subject to sanctions associated therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1208. Confidentiality of Reported Information

A. Reports and information furnished to the board pursuant to §1207 of this Chapter and records of the board relative to such information shall not be deemed public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative or investigative proceeding; provided that such reports, information and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. The identity of the seropositive practitioner or applicant for licensure who has reported their status as being HIV or HBV seropositive pursuant to §1207 of this Chapter shall be maintained in confidence by the board on all matters pertaining to the HIV and HBV diseases, and shall not be disclosed to any other party, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter, necessary for the evaluation and monitoring of the physical and psychological condition of the seropositive practitioner or applicant for licensure, or as allowed by R.S. 40:1300.14.

C. Provided that the identity of self-reporting practitioners and applicants seeking licensure is not disclosed, the provisions of this Section shall not be deemed to prevent disclosure by the board of statistical data derived from such reports, including, without limitation, the number and licensure class of those who have reported themselves as HIV or HBV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1209. Advertisement of HIV or HBV Status Prohibited

No licensee may advertise within the state of Louisiana his/her HIV or HBV status or whether the dental office or environment is free of HIV or HBV.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

§1210. Authorization to Practice; Expert Review Panel

A. Dental health care providers who are HIV or HBV seropositive shall not perform exposure-prone procedures unless and until they have provided proper notice as required by this Chapter; submitted to periodic physical and psychological evaluations by board-appointed expert review panel, and have received authorization to practice and perform procedures as determined by said appointed panel. The panel shall serve as a consultant on a case-by-case determination of whether a procedure, when performed by a particular dental health care provider, does not pose a danger to the public. The panel must timely report any adverse or detrimental changes in the physical or psychological condition of the dental health care provider to the board. Following receipt of any and all such reports, the board shall have the right and the duty to re-evaluate the authorized procedures being practiced by the dental health care provider and may revise same or revoke same in its entirety if said report shows a change in the dental health care provider's physical or psychological condition which may affect the safety of the public.

B. Upon receipt of an adverse report from the panel, the board must review and evaluate said report, within 15 days of receipt of same, and take any and all necessary action to protect the safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 18: (July 1992).

C. Barry Ogden
Executive Director

RULE

Department of Health and Hospitals Board of Medical Examiners

Notice is hereby given, in accordance with R.S. 49:953, that the Board of Medical Examiners (Board), pursuant to the authority vested in the board by R.S. 37:1270(B)(6) and 37:1285(B), and the provisions of the Administrative Procedure Act, has adopted rules governing physician prescription, dispensation, administration or other use of medications for weight reduction in the medical treatment of obesity, LAC 46:XLV, Subpart 3, §6901-6913. The rules were originally proposed for adoption by notice of intent published in the February 20, 1992, edition of the *Louisiana Register*. In response to and consideration of comments on the proposed rules received by the board during the announced comment period and during public hearing on the proposed rules held on March 27, 1992, the final rules as adopted amend and supplement the proposed rules in several respects. As adopted by the board, the final rules are set forth in full below.

Title 46

Professional and Occupational Standards

Part XLV. Medical Professions

Subpart 3. Practice

Chapter 69. Prescription, Dispensation and Administration of Medications

Subchapter A. Medications Used in the Treatment of Obesity

§6901. Scope of Subchapter

The rules of this Subchapter govern physician prescription, dispensation, administration or other use of medications for weight control or weight reduction in the medical treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(a)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: §6903. **Definitions**

As used in this Subchapter, the following terms shall have the meanings specified:

Anorectic means a drug, medication or substance used or intended for use as an appetite suppressant.

Schedule II Controlled Substance means any substance so classified under and pursuant to regulations of the Drug Enforcement Administration (DEA), U.S. Department of Justice, 21 C.F.R. §1308.12, or any substance which may hereafter be so classified by amendment or supplementation

of such regulation.

Schedule III Anorectic means and includes benzphetamine, phendimetrazine and any other substance now or hereafter classified as a Schedule III controlled substance under and pursuant to Federal DEA regulations, 21 C.F.R. §1308.13, and which is indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

Schedule IV Anorectic means and includes fenfluramine, phentermine, diethylpropion, mazindol and any other substance now or hereafter classified as a Schedule IV controlled substance under and pursuant to Federal DEA regulations, 21 C.F.R. §1308.14, and which is indicated for use in the treatment of exogenous obesity by express approval of the FDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: §6905. **Prohibitions**

A. **Absolute Prohibitions.** A physician shall not prescribe, dispense, administer, supply, sell, give or otherwise use to or for any person for the purpose of weight control or weight reduction in the treatment of obesity any amphetamine, dextroamphetamine, methamphetamine or phenmetrazine drug or compound; any Schedule II Controlled Substance; human chorionic gonadotropin (HCG); thyroid hormones; diuretic medications; or any drug, medication, compound, or substance which is not indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

B. **Schedule III-IV Anorectics.** A physician shall not prescribe, dispense or administer Schedule III or Schedule IV anorectics for the purpose of weight reduction or control in the treatment of obesity other than in strict conformity with each of the conditions and limitations prescribed by §6907 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: §6907. **Use of Schedule III-IV Anorectics; Conditions, Limitations**

A. **General Conditions.** A physician shall not prescribe, dispense, or administer a Schedule III or Schedule IV anorectic for the purpose of weight reduction or control in the treatment of obesity except as a short-term adjunct to a therapeutic regimen of weight reduction based on prescribed sound nutrition, caloric restriction, exercise, and behavior modification and otherwise in accordance with the FDA-approved labelling of the medication. Schedule III-IV anorectics may be prescribed, dispensed, or administered only to an adult patient who is obese under recognized generally accepted criteria for determining obesity, whose obesity is exogenous and not primarily metabolic, who is not pregnant, who does not suffer from or have any disease or condition constituting a recognized contraindication for use of the substance, and who otherwise satisfies the conditions requisite to treatment with anorectics as prescribed by this Section.

B. **Requisite Prior Conditions.** Before initiating treatment utilizing a Schedule III or IV anorectic with respect to any patient, a physician shall:

1. obtain a thorough prior history, including the pa-

tient's weight loss/gain history and prior efforts at weight reduction;

2. perform a thorough and complete physical examination;

3. determine that the patient is a proper candidate for weight reduction treatment and that the patient's obesity is not primarily metabolic;

4. rule out the presence of conditions recognized as contraindicating the use of anorectic medications, including, without limitation, pregnancy, hypertension, and hypersensitivity or idiosyncrasy to anorectics;

5. determine whether the patient has a history of or any tendency or propensity toward abuse of drugs, including alcohol;

6. determine that the patient has made a substantial good-faith effort at weight reduction under a *bona fide* program not utilizing anorectics;

7. take reasonable measures to ensure that the patient has not previously, in the course of treatment by one or more other practitioners, or otherwise, obtained and used anorectics in excess of the quantitative and durational limitations on the use of anorectics prescribed by Subsection E of the Section; and

8. provide the patient with a carefully prescribed diet, together with counselling on exercise and, as appropriate, other supportive or behavioral therapy.

C. Initiation of Anorectic Use. Upon completion and satisfaction of the conditions prescribed by Subsections A and B of this Section and upon the physician's judgment that the prescription, dispensation or administration of an anorectic medication is medically warranted, the physician shall initiate anorectic treatment with the lowest dosage expected to be effective, as indicated by the manufacturer's FDA-approved dosage recommendation, employing a Schedule IV anorectic in preference to a Schedule III anorectic and refraining from use of Schedule III anorectics until and unless the anorectic initially used proves ineffective.

D. Continued Use of Anorectics. During the continued use of anorectics as permitted in this Section, and subject to the limitations prescribed in Subsection E hereof, the physician shall monitor the patient's progress closely and frequently, shall re-examine the patient not less frequently than monthly during such continued use and shall continue use of anorectics only if, upon each such re-examination, the patient demonstrates continued clinically significant weight loss since the prior examination.

E. Limitations on Use. A physician shall not prescribe or dispense Schedule III or IV anorectics to any patient:

1. in dosage greater than the maximum dosage indicated by the anorectic manufacturer's FDA-approved dosage recommendation;

2. in number or dosage units greater than an amount sufficient for use of the anorectic for a period of 30 days; or

3. for an aggregate period in excess of 12 weeks during any 24-month period.

F. Termination of Anorectic Use. Without regard to the permissible limitations otherwise prescribed by Subsection E hereof, a physician shall refuse to initiate or re-initiate or shall terminate the use of anorectics with respect to a patient on any date that the physician determines, becomes aware, knows or should know that;

1. the patient is not a proper candidate for the use of anorectics under the conditions and limitations prescribed by

this Section;

2. the patient has failed to demonstrate clinically significant weight loss since anorectics were last prescribed, dispensed or administered to the patient by the physician;

3. the patient has developed tolerance to the appetite suppressant effect of the anorectic or has experienced euphoria followed by irritability or depression;

4. the patient has engaged in excessive use, misuse or abuse of the anorectic or has otherwise consumed or disposed of the anorectics or any other controlled substance other than in strict compliance with the directions and indications for use given by the physician; or

5. the patient did not demonstrate clinically significant weight loss during a prior term of use of anorectics within the limitations of §6907(E)(3) hereof.

G. Treatment Records. Satisfaction of each of the conditions and requirements prescribed by this Section, all material elements of the patient's history, all significant findings from physical examination and diagnostic testing, and all medication and other treatment, including diet, prescribed by the physician, shall be accurately and completely recorded, documented and dated, in writing, by the physician in the patient's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (July 1992).

§6909. Exemption of Controlled Scientific Studies

The prohibitions, conditions and limitations on the use of Schedule III and Schedule IV anorectic medications prescribed by §6905(B) and §6907 of this Subchapter shall not be applicable to a physician engaged in the conduct of a controlled scientific study of the efficacy of such medications in the medical treatment of obesity, provided that the physician is employed by or otherwise officially affiliated with an accredited medical school or college or other institution of higher learning located in the state of Louisiana, such study is conducted under the auspices of such school, college or institution, and the interim and final results of such study are furnished to the board in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (July 1992).

§6911. Exceptions in Individual Cases

A. Availability of Exceptions. Upon written application to the board made in accordance with this Subsection, the board may authorize a physician, with respect to an identified individual patient, to exceed or otherwise depart from the prohibitions, conditions and limitations on the use of Schedule III or Schedule IV anorectics otherwise prescribed by §6905(B) and §6907 of this Subchapter.

B. Form, Content of Application for Exception. An application board approval of an individual exception from the provisions of this Subchapter shall be submitted to the board's medical consultant in writing and shall contain:

1. individual identification of the patient to whom the physician proposes to prescribe, dispense or administer anorectics other than in accordance with the provisions of this Subchapter;

2. a summary of the patient's medical and weight loss/

gain history;

3. a complete copy of the patient's medical record, including a record of all anorectic medications prescribed, dispensed or administered to or for the patient within 24 months prior to the application;

4. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the prescription, dispensation and administration of anorectic medications, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

5. such other information and documentation as the board or its medical consultant may request.

C. Board Action. The board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions and limitations provided in this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (July 1992).

§6913. Effect of Violation

Any violation of or failure of compliance with the provisions of this Subchapter §6901-6913, shall be deemed a violation of R.S. 37:1285(A)(6) and (29), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18: (July 1992).

Delmar Rorison
Executive Director

RULE

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

Mechanical Wastewater Treatment Plants for Individual Homes

In accordance with the laws of the state of Louisiana, R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the state health officer has determined that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual

Homes--Acceptable Units," is adopted:

1. Amend the listing to include two additional series models for a currently listed manufacturer/plant, specified as follows:

MANUFACTURER	PLANT DESIGNATION	RATED CAPACITY
MCC, Inc. 9599 Wallace Lake Road Shreveport, LA 71106 (318) 687-2550 1-800-367-0859	"CAJUN AIRE"	
	Model 750	750 GPD
	Model 1000	1000 GPD

The specified change is in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

J. Christopher Pilley
Secretary

RULE

**Department of Insurance
Commissioner of Insurance**

Repeal of Regulation 38

Regulation number 38 of the Department of Insurance, concerning "Defense Costs Within Limits", is hereby repealed.

The notice of intent to repeal this regulation was published in the *Louisiana Register*, July 20, 1991, page 735.

James H. "Jim" Brown
Commissioner of Insurance

RULE

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

Under the authority of R.S. 32:1501 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section hereby adopts revisions to LAC 33:V.Chapter 103.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Materials and Hazardous Waste
Subpart 2. Department of Public Safety
and Corrections - Hazardous Materials**

Chapter 103. Motor Carrier Safety and Hazardous Materials Regulations for Carriage of Public Highways

§10305. Applicability of Regulations

A. - C.2. ...

3.a. if a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to January 20, 1988, such driver is exempt from complying with Sections 391.21, 391.23, and 391.33.

b. if a driver has been employed as a commercial motor vehicle operator for a minimum of 24 months prior to March 31, 1992, such driver is exempt from complying with Sections 391.41(b)(1), (2), (3), (4), (5), (10) and (11).

However, such a driver may remain qualified only as long as an examining physician determines, during the biennial medical examination required in 49 CFR Part 391.45, that the existing medical or physical condition that would otherwise render a driver unqualified has not significantly worsened or that another disqualifying medical or physical condition has not manifested. The medical examiner's certificate must display upon its face the inscription "MEDICALLY UNQUALIFIED OUTSIDE LOUISIANA" when a driver is qualified in accordance with the provisions stated herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:298 (May 1988), LR 17:1115 (November 1991), repromulgated LR 18:78 (January 1992), amended LR 18: (July 1992).

Paul W. Fontenot, Colonel
Deputy Secretary

RULE

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services, amended the following rule in the Social Services Block Grant Program. The rule entitled "Title 67, Part V. Office of Community Services, Chapter 2. Social Services Block Grant program," published in the *Louisiana Register*, Vol. 17, No. 11, November 20, 1991, is hereby amended as follows:

Title 67

SOCIAL SERVICES

Part V. Office of Community Services

Chapter 2. Social Services Block Grant Program

§207. Eligibility

A. Certain individuals and categories of individuals may be eligible for services according to federal regulations. These are:

6. families with gross incomes which do not exceed 125 percent of the poverty level, as published yearly by the U.S. Department of Health and Human Services in the *Federal Register*.

AUTHORITY NOTE: Promulgated in accordance with Pub. L. 97-35, Sections 2351-55 (42 U.S.C. 1397-1397e).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 17:1118 (November 1991), amended LR 18: (July 1992).

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services Office of Community Services

The Department of Social Services, Office of Community Services has adopted the following rule in the Adoption Program. An emergency rule was published in the February, 1992, and the May, 1992 issues of the *Louisiana Register*.

This rule is mandated by The Children's Code, Title XII, Chapter 2. This rule amends, reenacts, and revises rules in respect to Private Adoptions. This rule hereby repeals the notice published in the September 20, 1991, *Louisiana Register*, Vol. 17 No. 9, pp. 917-918.

RULE

I. Certificate of Adoption

Any prospective adoptive parent in a private adoption shall obtain a certificate of adoption prior to physically receiving the child except when the child is the step-child, grandchild, sibling, niece, or nephew of one of the prospective adopting parents.

II. Definitions

A. *Certificate of Adoption*—a person who applies to adopt a child privately is certified as qualified to adopt in accordance with the Louisiana Children's Code. A Certificate of Adoption is valid a minimum of two years and a maximum of four years without an update being required. A Certificate of Adoption can be revoked for just cause.

B. *Prospective adoptive parents*—any couple who is adopting any child except persons who may petition for intra-family adoption. The following persons may petition for an intrafamily adoption:

1. a stepparent married to the parent of a legitimate child;
2. a single grandparent or married grandparents of a legitimate child when the child has been in the grandparent's home for six months prior to the filing of a petition for adoption.

When the spouse of the stepparent or one joint petitioner dies after the petition has been filed, the adoption proceedings may continue as though the survivor was a single original petitioner.

III. Procedures

There are two procedures by which a valid Certificate of Adoption may be obtained by any prospective adoptive couple in Louisiana attempting to adopt privately. Any out-of-Louisiana prospective adoptive couple must also comply with the Louisiana Interstate Compact on Placement of Children.

A. The prospective adoptive couple may apply for a court order approving the placement of a child in their home. The court shall be of proper venue in state of Louisiana.

1. The application for court approval of adoptive placement shall be verified and shall contain the following:

- a. the name, address, age occupation, and marital status of the prospective adoptive parents;
- b. the expected date of the child's placement;
- c. the relationship between the child and the prospective adoptive parent, if any;
- d. the name of the child whose placement is requested, if known;

2. This application for court approval of adoptive placement shall be filed with the clerk of a court of appropriate venue as authorized in Louisiana's Children's Code.

3. The application for court approval of adoptive placement shall be set for hearing in chambers, confidentially, and in a summary manner within 48 hours of its filing.

4. At the hearing, the prospective adoptive parents shall testify under oath concerning their fitness to receive the child into their care and custody, including but not limited to:

- a. their moral fitness, previous criminal records or validated complaints of child abuse or neglect, if any;
- b. their mental and physical health;
- c. their financial capacity and disposition to provide the child with food, clothing, medical care, and other material needs;
- d. their capacity and disposition to give the child love, affection, and guidance and to undertake the responsibilities of becoming the child's parents;
- e. the adequacy of the physical environment of their home and neighborhood for the placement of the child;
- f. the names and ages of other family members who would reside with the child in the prospective adoptive home and their attitude toward the proposed adoption;
- g. the stability and the permanence, as a family unit, of the proposed adoptive home;

5. At the conclusion of the hearing, the court shall render an order approving or disapproving the placement of the child with the prospective adoptive parents;

6. The order shall be in writing and signed by the judge.

7. A certified copy of the court order approving the adoptive placement shall be given to the prospective adoptive parents. This certified court order is the certificate of adoption if approval is granted.

8. Any order disapproving the adoptive placement shall include specific reasons therefor.

9. Any perjury, withholding of information or misleading statements, during this hearing, may be grounds for revocation of the certificate of adoption, or for revoking the adoption itself.

10. The court may issue an instant order taking protective custody of the child if this information, if known, together with other evidence presented at the hearing, would have resulted in the court's disapproval of the adoptive placement.

B. The second procedure for obtaining a certificate of adoption is that any person qualified to adopt in Louisiana may request a social worker in the employ of a licensed child placing agency, a board-certified social worker, or a licensed counselor, psychologist, or psychiatrist to conduct a home study before the physical placement of the child in the home. Those people or agencies doing the home study shall be licensed in their respective fields in the state of Louisiana.

1. This home study must address, as appropriate, in writing all the items in the following Sections of the Louisiana Administrative Code, namely:

- LAC 48:4115(C) Adoptive Home Study
- LAC 48:4115(D) Notification regarding application
- LAC 48:4115(E) Access to Records
- LAC 48:4115(F) Updating Home Study
- LAC 48:4115(H) Review Procedure
- LAC 48:4115(I) Adoptive Parents' Records

2. In addition to the home study, the application for certificate of adoption must also contain a request for the court to order a criminal records check for all federal and state arrests and convictions, and validated complaints of

child abuse or neglect, respectively, in this or any other state specified for each prospective adoptive parent. This check shall provide a certificate indicating all information discovered or that no information has been found.

a. Attorneys representing prospective adoptive couples living in Louisiana for private adoptions must request the court having jurisdiction to order a Louisiana child abuse/neglect records check from the Office Community Services Regional Office for the parish of residence of the prospective adoptive couple with the results of said check to be submitted in writing to the court. The court order shall be sent to the attention of the Adoption Petition Unit.

b. The mailing addresses of the regional offices of the Office of Community Services where this form may be obtained are as follows:

New Orleans Regional Office, Box 57149, New Orleans, La. 70157-7149;

Baton Rouge Regional Office, Box 66789, Baton Rouge, La. 70896;

Lafayette Regional Office, 1353 Surrey Street Lafayette, La. 70501;

Lake Charles Regional Office, Box 16865, Lake Charles, La. 70616;

Alexandria Regional Office, Box 832, Alexandria, La. 71309;

Shreveport Regional Office, 801 State Office Building, 1525 Fairfield Avenue, Shreveport, La. 71101-4388;

Monroe Regional Office, Box 3047, Monroe, La. 71210;

Thibodaux Regional Office, Box 998, Thibodaux, La. 70302-0998.

3. The prospective adoptive couple at the end of this home study shall be given a certificate of adoption if favorable in the judgment of the contracted person doing the home study in accordance with Louisiana's Children's Code. If there is a disapproval, the prospective adoptive couple shall be informed in writing of the reason for the disapproval.

4. Payment of the home study is at the petitioner's expense.

IV. Enforcement

The Department of Social Services, Office of Community Services in carrying out the duties as detailed in the Children's Code Title XII Chapter 10 Article 1229 (A) shall include in the report to the court a copy of the certificate of adoption for the prospective adoptive couple or report to the court in writing that no certificate of adoption has been obtained in accordance with the Louisiana Children's Code.

Gloria Bryant-Banks
Secretary

RULE

Department of Social Services Office of Family Support

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III., Subpart 5, Job Opportunities and Basic Skills Training Program, or Project Independence, the name for Louisiana's Program.

This rule is a result of regulations for Project Independence Support Services at 45 CFR 255.1(c).

Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Job Opportunities and
Basic Skills Training Program

Chapter 29. Organization

Subchapter A. Designation and Authority of State Agency

§2901. Implementation

A. 1-3....

4. Support Services

a. Effective July 1, 1992, the procedure to purchase refreshments as a supportive service for in house component delivery will be implemented. Supplies will be purchased in bulk from vendors, following state procurement rules and regulations, and utilized in accordance with the projected numbers of participants and days of activities the supplies are to cover at a maximum cost of \$1 per day per participant.

AUTHORITY NOTE: Promulgated in accordance with F.R. 54:42146 et seq., 45 CFR 255.1(c).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), LR 16:1064 (December 1990), LR 17:1227 (December 1991), LR 18:80 (January 1992), LR 17:973 (October 1991), amended, Emergency Rules effective July, 1991, published LR 17:646 (July 1991) and effective October 1, 1991, published LR 17:973 (October 1991), amended LR 18: (July 1992).

Gloria Bryant-Banks
Secretary

RULE

Department of Transportation and Development
Division of Flood Control and Water Management

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Transportation and Development has adopted revisions to its rule entitled Port Construction and Development Priority Program Rules and Regulations (LAC 70:XV.Chapter 1) in accordance with the provisions of Act 452 of the 1989 Regular Session of the Legislature.

Title 70
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

Part XV. Division of Flood Control and Water Management
Chapter 1. Louisiana Port Construction and Development

Priority Program Rules and Regulations

§101. Provisions of Act 452 of 1989 Regular Session

A. Creation of Priority Program

1. The Louisiana Port Construction and Development Priority Program was created by Act 452 of the 1989 Regular Session. Before this program, the state funded ports projects through the Capital Outlay Program without requiring any feasibility studies. From 1977 to 1984 Louisiana expended more funds for ports than any other state in the union. For this period Louisiana spent \$25,985,000 on shallow draft ports and \$173,424,000 on deep draft ports for a total of \$199,409,000.¹

2. The creation of the Port Construction and Development Priority Program changed the method by which Louisiana participated in port improvements. The feasibility of proposed port projects must now be determined and the projects must be prioritized. The source of state funds for the Louisiana Port Construction and Development Priority Program is the Transportation Trust Fund. Revenue accrues to the Transportation Trust Fund through the collection of taxes placed on the sale of gasoline.

3. In general, the purpose of a priority program is to disburse funds to projects that have the highest prospects of success as determined by objective standards such as technical and financial feasibility and overall impacts. A priority program also defines the standards by which these projects are evaluated and provides the mechanisms to conduct the evaluation according to an accepted methodology. Moreover, a priority program's application process may serve as a means to determine whether proposed projects are even eligible for funding under the program as well as provide the basis for maintaining a current inventory of facilities that can be used for future purposes.

4. The components of a typical priority program includes legislative authorization, a set of rules and regulations governing the program's implementation, an application process, an evaluation procedure, a prioritization of projects, funding, and finally implementation.

5. With regard to Louisiana's port priority program, many of the overall requirements and procedures are similar to other priority programs. However, Louisiana's program specifically emphasizes the need of equitable rationalization of state expenditures in order to avoid duplication of port infrastructure. In addition, because ports are dynamic economic entities, Louisiana's port priority program provides for rigorous analysis of forecasted project benefits in order to ensure the overall impact of the project on the state will be positive, providing maximum benefits for the state. Finally, because effective project implementation is as important to the success of the program as project prioritization, the Louisiana port priority program stipulates strict procedures for the planning and construction of funded projects as well as the operation of maintenance of the completed project.

B. Port Project Evaluation Methodology

1. Act 452 requires that the Department of Transportation and Development (department) develop procedures for review and a methodology to evaluate port projects which are seeking state funds.

2. Procedures to review and evaluate port project applications for funding shall be submitted to the Joint Legislative Committee on Transportation, Highways and Public Works. Before implementing these procedures, the approval of the committee shall be obtained in accordance with the Administrative Procedure Act.

3. The department may contract with the Louisiana State University National Ports and Waterways Institute for any of the duties associated with the development of the port priority program. These activities may include but are not limited to the development, review, and evaluation of plans and specifications and the development of the port program list. However, the final determination of the port priority list shall remain with the department and the Joint Legislative Committee as provided by Act 452.

4. An inventory of ports, navigable waterways, and water transportation facilities shall be maintained. Both private

and public facilities shall be included. Information such as location, capacities, and capabilities shall be included. The department shall also serve as a clearinghouse for inquiries for ports and waterways information.

5. Each year, the department shall prepare a summary report of financial requirements for expanding or renovating existing ports and waterways facilities and constructing new ones. The financial requirements shall be separated into state, federal, local and private funds required.

C. Program Procedures

1. Any port authority may submit an application for funding to the department except as provided in R.S. 34:3456. Applications shall be submitted by November 1 for consideration in the following fiscal year. The application shall include a description of the project, demonstration of immediate need, preliminary design, cost estimate, and a description of the project area.

2. The Louisiana Department of Transportation and Development shall review the applications. Applications shall not be subjected to a formal review and evaluation until the information required in the application has been submitted. Applications shall also be reviewed by any appropriate state agencies.

3. The act provides for the submittal of a list of recommended projects in prioritized order to the Joint Legislative Committee. The committee will hold public hearings to obtain public input concerning the priority list. After the hearings and before the convening of the regular session, the department shall prepare a recommended construction program for the coming fiscal year and submit it to the joint legislative committee. When the recommended construction program is presented to the legislature for funding, the legislature cannot add any projects to the program.

4. Upon funding by the legislature, the department shall enter into an agreement with the port authority to participate in the construction of the project. The port authority shall provide 25 percent local match for the cost of constructing the project, and shall furnish all lands, easements, rights-of-ways, and spoil disposal areas at no cost to the state unless said items are critical to the project. The port authority also shall operate and maintain the facility without cost to the state.

5. Port authorities domiciled in a parish with a population of 50,000 or more shall be responsible for the preparation of plans and specifications, for letting of bids for construction, and for construction observation. Port authorities domiciled in a parish with a population less than 50,000 may request the department to prepare plans and specifications, to let the project for bids, and to observe construction. The engineer that prepared the plans will inspect the work and certify that the project complies with the plans and specifications upon completion.

6. All contracts for construction shall be advertised and awarded in accordance with R.S. 38:2212 et seq.

7. Projects which are funded by this program shall begin in the fiscal year that the appropriation is made. Execution of an agreement with the department and receipt of preliminary plans by the department shall indicate that the project has begun. These preliminary construction plans differ from the plans submitted in the application in that they are more advanced.

8. The Port of New Orleans is prohibited from participating in the port priority program for five consecutive years

beginning the first fiscal year that the program is funded.

D. Auditing Funds

Funds shall be audited biannually by legislative auditor or certified public accountant in accordance with R.S. 24:513(A) and distributed in accordance with R.S. 24:516(A). The audit shall include an investigation of any failure to comply with the recommendations of the department in planning, design, and construction of the port project. Port authorities shall certify annually that the funds made available have been expended according to law.

E. Misuse of Funds

The legislative auditor shall report any misuse of funds to the legislative audit advisory council. The council shall determine if in fact funds have been misused. If funds have been misused, the council will instruct the state treasurer to suspend the distribution of funds. The council shall also advise the local district attorney of the misuse. The district attorney will take appropriate actions.

¹ Port and Waterways Institute, *Louisiana Statewide Ports Assessment*, 2 vols., (Baton Rouge: Louisiana State University, 1986), II, 88.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

§103. Definitions

A. *Committee*—Joint Legislative Committee on Transportation, Highways and Public Works.

B. *Council*—Legislative Audit Advisory Council.

C. *Deep Draft Port*—A port capable of accommodating vessels of at least 25 feet of draft and of engaging in foreign commerce.

D. *Department*—The Louisiana Department of Transportation and Development.

E. *Joint Legislative Committee*—See Committee.

F. *Port*—A harbor town or city where ships may take on or discharge cargo.

G. *Port Authority*—The governing body of any port area or port, harbor, and terminal district.

H. *Procedural Manual*—A manual entitled, *Louisiana Port Construction and Development Priority Program Procedural Manual for Funded Projects*, which is used to implement projects funded by the program.

I. *Program*—Louisiana Port Construction and Development Priority Program.

J. *Project*—That activity that derives benefits to the state after an investment of program and port funds. The port funds may include federal monies.

K. *Project Agreement*—The agreement between the department and port authority that states the authorities and responsibilities of each party in implementing a project that is funded in part by the Louisiana Port Construction and Development Program. The format is as shown in the procedural manual.

L. *Shallow Draft Port*—A port that is not capable of accommodating vessels of 25 feet of draft or is not engaged in foreign commerce.

M. *Total Project*—That activity that derives benefits to the state after an investment of program, port, and other public and private funds.

N. *Transportation Trust Fund*—A fund created by a constitutional amendment passed by the voters on October

7, 1989 which dedicated \$.16 of the gasoline/motor fuel tax to construction and maintenance of state and federal highways and bridges, statewide flood control, ports, airports, transit, state police for traffic control, and parish roads.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

§105. Program Procedures

A. Application

Any Louisiana port authority may submit an application for funding to the department except as provided in R.S. 34:3456. Applications shall be submitted between October 1 and November 1 for consideration in the following fiscal year. The application shall include a description of the project, demonstration of immediate need, benefits to be derived, preliminary design, cost estimate, and a description of the project area.

B. Review and Evaluation of Applications

The Louisiana Department of Transportation and Development shall review the applications. Applications shall not be subjected to a formal review and evaluation until the information required in the application has been submitted. Applications shall also be reviewed by any appropriate state agencies.

C. List of Recommended Projects

After receipt by the department, the applications shall be reviewed. Only applications which are complete shall be evaluated and prioritized. The department shall then prepare a recommended list of projects in priority order and submit the list to the joint legislative committee. Only projects that have a benefit cost ratio of one or more will be recommended. Multi-year projects that have been funded by the program shall receive higher priority than new projects.

D. Public Hearings

The joint legislative committee shall hold a public hearing or hearings to obtain public input regarding the recommended list of projects. Before each hearing, the department shall publish the appropriate official notice in proper journals.

E. Construction Program

After reviewing the public input, the joint legislative committee shall recommend to the legislature a construction program prepared by the department from the list of recommended projects. Projects recommended but not funded will be included in the list of recommended projects for the following year. If a recommended project remains unfunded after four years and the port authority still desires to proceed with the project, a new application will be required.

F. Project Agreement

Prior to the commencement of any work, the port authority shall enter into a project agreement with the department; whereby, the port authority agrees to provide at least 25 percent local match for the costs of constructing the project; agrees to furnish all lands, easements, rights of way, and spoil disposal areas necessary to construct and maintain the project without cost to the state, unless said items are critical to the project; and agrees to assume all maintenance and operations costs and future alterations as may be required without cost to the state and agrees to implement the project in accordance with the procedural manual. The port authority shall not use state funds from any source in provid-

ing its local match.

G. Project Implementation

Upon executing the project agreement for funding with the department, the port authority shall ensure that the Louisiana Port Construction and Development Priority Program Procedural Manual for Funded Projects is adhered to in the preparation of the plans and specifications, advertising for bids, awarding of a contract, and construction observation. This manual will be made available to all port authorities designated to receive program funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

§107. Program Requirements

A. General Requirements

In order for the department to be able to adequately assess the merits of the proposed project, applications must be complete and verifiable. The responsibility to provide complete, accurate, and documented data on each project, as defined herein, rests solely with the port authority submitting the applications for funding.

B. Specific Requirements

1. Project and Total Project

a. For purposes of this program, a project is that activity that derives benefits to the state after an investment of program and port funds. It may be composed of components that, all together, require up to two consecutive years to implement. Project refers to that portion of the total project for which the port is seeking program funds from the department. The amount of program funds required is used in calculating the benefit cost ratio which is used for ranking projects.

b. The total project is that activity that derives benefits to the state after an investment of program, port, and other public and private funds and its cost is used to determine if the requirement for a minimum benefit cost ratio of one is met. The total project includes all improvements that are necessary by both the public and private sector in order to derive the benefits identified in the application.

2. Local Match

a. Each port authority shall provide a local match equal to at least 25 percent of the cost of the project. Funds obtained from federal sources may be used for the local match. No state funds can be used as local matching funds. Prior to advertisement for bids, verifiable evidence shall be submitted indicating that all non-program funds are in hand or are readily available.

b. A port authority may provide a local match greater than 25 percent. Since the state's investment is the cost in calculating the benefit-cost (B/C) ratio, the B/C will be greater if the port elects to provide a larger local match. A higher B/C will result in a higher evaluation score.

3. Land Acquisition

Land acquisition shall be eligible for funding only when in the judgment of the department it is an integral component of a project and critical to its development. An application must be developed which presents costs, benefits, and other data for the total project.

4. Port-Owned or Public Land

a. Port improvements funded through the Port Construction and Development Priority Program shall be built,

installed, and/or implemented only on port-owned lands or public lands. Public lands are lands owned by public organizations which are authorized by law to perform governmental functions.

b. Prior to advertisement for bids, port authorities shall submit verifiable evidence that they either own the land or they have entered into an agreement with the public body that owns the land.

5. Number of Applications

An application shall be prepared for each integral project. If a port authority submits more than one application in a given year, the port authority shall prioritize them. The top priority project shall be labeled "Priority One" on the title sheet of the application. The next priority project shall be labeled "Priority Two", etc. Due to time constraints and available personnel to evaluate the applications, the department may restrict the evaluation to only the top two priority projects per port in a given application year.

6. Types of Projects

The types of projects that shall be funded by the program shall be limited to the construction, improvement, capital facility rehabilitation, and expansion of publicly-owned port facilities including intermodal facilities and maritime-related industrial park infrastructure development, such as wharves, cargo handling capital equipment, utilities, railroads, primary access road, and buildings which can be shown to be integral components of any port project submitted for funding.

7. Navigation Projects

Funding from the program will not be integrated with or used for the state sponsorship (state matching basis for federal appropriation) for new construction and/or maintenance dredging on federally authorized navigable waterways.

8. Project Commencement

At the application stage, projects must be developed sufficiently to allow them to commence within the fiscal year that they are funded. Execution of the project agreement with the department and receipt of preliminary plans by the department shall constitute commencement. Preliminary plans at this stage must be more advanced than plans submitted with the application. Projects that do not commence within the fiscal year that they are funded will result in forfeiture of program funds.

9. Forfeiture of Program Funds

a. If a port authority does not execute the project agreement furnished by the department and return it to the department within 90 days of being mailed to the port authority, then the state funds authorized from the Port Construction and Development Priority Program shall be forfeited.

b. If a project is not commenced within the fiscal year that is it funded, then the state funds authorized by the program shall be forfeited. A project is considered to have commenced upon delivering the executed project agreement and preliminary plans to the department. Preliminary plans submitted with the application shall not meet this requirement.

c. Advertising a project for bids to construct the project prior to obtaining written notice from the department shall result in forfeiture of program funds.

10. Selling Lands, Facilities, etc.

Should a port authority sell or dispose of any lands, facilities, etc. that have been funded in part by the Port Construction and Development Priority Program, then the port

authority shall reimburse the department for the percentage of project life remaining at the time of the sale. The project life shall be 20 years for structures and 10 years for equipment unless a different period of time is specified in the evaluation of the project.

11. Maintenance

The port authority is responsible for maintenance and will structure their revenue rates to adequately fund maintenance cost.

12. Discount Rate

The discount rate used in the evaluation process shall be 3.70 percent. This rate is derived from the average interest rate paid on 30-year bonds during the period 1987-1990 (7.70 percent) by the Louisiana State Bond Commission less the 1988-1990 average inflation rate (4.0 percent) as indicated by the Consumer Price Index.

13. Minimum Return on State's Investment

The minimum rate of return for the state's investment shall be 3.70 percent. This evaluation shall be based on no growth. In calculating the rate of return for this criteria, the cost shall be the total program funds invested. The benefits for this calculation shall be the port revenues less expenses associated with the proposed project. Expenses shall include maintenance costs. Salvage value or project life remaining after then 10-year evaluation period shall be indicated as a benefit (See salvage value).

14. Benefit Cost Ratio

Only projects that have a benefit-cost ratio equal to one or more shall be funded by the Port Construction and Development Priority Program. In calculating the B/C for this criteria, the cost is the total investment, both public and private, required to implement the total project and derive the benefits.

15. Monitoring

a. For three years after the completion of a project funded by the Port Construction and Development Priority Program, the port authority shall submit to the department a report comparing the actual benefits derived with the estimated benefits associated with the project. This report will be submitted at the end of the fiscal year. The source of data for the actual benefits shall be stated. Significant deviations will be noted and proposed corrective actions, if needed, will be indicated.

b. Port authorities that do not comply with this provision will be ineligible to participate in the program for three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

§109. Application

A. General Instructions

Applications may be submitted to the department between October 1 and November 1 to be considered for funding the following fiscal year, except as provided in R.S. 34:3456. The application shall be submitted in the format as shown and as follows.

Number of copies: original and three copies

Time: Between October 1 and November 1 but before 4 p.m. November 1

Mailed to: Louisiana Port Construction and Development Priority Program
Louisiana Department of Transportation and Development
Box 94245
Baton Rouge, LA 70804-9245

Delivered to: Louisiana Port Construction and Development Priority Program
Louisiana Department of Transportation and Development
Room 401
1201 Capital Access Road
Baton Rouge, LA

B. Contents

All pages in the application shall be numbered and the application shall be bound. Applications shall be submitted in the following format (See Appendix B).

1. Title Page. The title page of the application shall be as follows:

a. Parish. In the upper right hand corner of the title page indicate the name of the parish in which the project is proposed to be built.

b. Project Name. Directly below the parish name, enter the project name. The name should have some identifying characteristic of the work that is proposed and should not be an exact duplicate of a project name used in a previous year. If the application is for an extension of a previous project, then the same project name may be used if additional information is incorporated into the name such as Phase I, Phase II, etc.

c. Priority. If more than one application is submitted, then indicate the priority directly under the parish. The top priority project should be indicated as "Priority One".

d. Application Title. Approximately one-third from the top of the page and centered place the title, "APPLICATION TO LOUISIANA PORT CONSTRUCTION AND DEVELOPMENT PRIORITY PROGRAM".

e. Name of Port Authority. In the middle of the page from the top indicate the legal name of the port authority, address, telephone and fax numbers, and authorized representative.

f. Legislative Delegation. In the lower one-third of the page, provide the names and district numbers of the senators and representatives within whose districts the project is proposed.

g. Preparer. If different from the authorized representative, provide the name, address, telephone, and fax number of the person who prepared the application.

h. Date. Centered at the bottom of the page, state the month and year in which the application was submitted.

2. Description of Proposed Project

a. Nature and Goals. Provide a narrative description of the proposed project and the total project. The descriptions are to be in sufficient detail to clearly convey the purpose, design, and major components of the project and the total project.

b. Funds Requested. Indicate the amount of funds needed for the project and the total project. Also show the expected funding sources such as programs, port authority, federal, and other. If the project will be implemented in two years, the amounts needed for each year shall be shown.

c. Alternatives. Discuss alternatives, and state the reason they were not selected. At least one alternative solution

shall be discussed and developed in sufficient detail to ensure that the proposed project was selected as the result of an objective analysis. Explain why the proposed project was selected over the alternatives.

d. Adequacy of Components. New port projects often create operational bottlenecks in supporting infrastructure such as access roads, warehouses, and yard spaces. Identify all the components necessary to derive the benefits stated. Go from a logical terminus, through the port to another logical terminus. For example, the discussion of the necessary project components may begin in the gulf, go through the navigational channels to the port, unload at the port, reload at the port onto a railroad car, and from the rail spur to a main line. A trucking operation may terminate at a state highway that is capable of handling the added traffic satisfactorily. Indicate whether these components are existing or proposed. For all existing components, discuss the adequacy of the components. For all proposed components, indicate what is proposed, by whom, when, and what is the estimated cost. Verifying documentation may be included in Appendix K.

3. Demonstration of Immediate Need for Project

Provide a demonstration of the immediate need for the project and supply supporting documentation. This portion of the application is extremely important. Most of the information provided in this section are forecasts and estimates. Therefore, sufficient attention should be given to adequately communicate and document the need for the proposed port project through detailed market analyses and commitments by port users to utilize the expanded project facilities.

a. Cargo History

Indicate the total cargo and revenue that was handled by the port in the last five years. List the cargo by type (bulk, break-bulk, neo-bulk, containers) and volumes. Analyze trends of cargo growth and the underlying reasons. Establish the level of utilization of existing facilities in relation to cargo volumes handled. If congestion was experienced, identify facility bottlenecks and describe how they were overcome. Also, indicate the sources of all data. Provide a summary in this section of the application. A detailed list of cargo history shall be provided at Attachment H.

b. Market Analyses

Forecast the cargo which will use the project for the next 10 years. List the type of cargo and volumes expected, along with the market analysis and estimate of the market share. Cargo forecasts and market analyses have to be complete with detailed underlying assumptions and justifications. If cargo forecasts exceed historical trends, provide justification in terms of significant economic and technological developments occurring in the ports service area. If the port facility expansion is in response to increased demand from new industries locating in the area, these location decisions have to be substantiated by comparative cost analyses. As port projects cover diverse types of investments, it is difficult to provide exact industry norms to cover all situations. Some general guidelines on cargo forecasts are provided in this section. These must be considered as general industry norms. Variation from these norms must be analyzed and justified.

i. Extrapolation from past trends: the simplest method of cargo forecasting is to extrapolate from past trends, making whatever adjustments that may be necessary to take into account changes that are likely to modify these trends. Na-

tional projections for waterborne commerce, by major commodity types, are shown in Figure 1. These growth estimates are to be used to forecast traffic growth unless adequate justification is provided to support any deviation. If a particular commodity is not included in Figure 1 then use the total waterborne commerce trend.

NATIONAL PROJECTIONS OF WATERBORNE TRAFFIC BY MAJOR COMMODITIES TO YEAR 2000			
COMMODITY GROUP	Growth Estimate (Percent/Year)		
	High	Medium	Low
Total Waterborne Commerce	2.00	1.60	0.90
Coal		1.80	
Petroleum		1.40	
Agricultural Chemicals	3.10	1.50 - 3.00	1.90
Industrial Chemicals	3.50	2.80	1.70
Metallic Ores	2.60	2.20	1.80
Nonmetallic Minerals	0.50 - 1.50	0.50	(1.60)
Stone and Clay	2.60	2.20	1.80
Fish Products	0.75	(1.10)	(2.40)
Farm Products	3.10	2.40 - 2.90	0.90
Lumber	2.30	0.30 - 1.70	0.60 - 0.80

Figure 1. NATIONAL PROJECTIONS OF WATERBORNE TRAFFIC, BY MAJOR COMMODITIES, TO YEAR 2000: Source: *Status of the Inland Waterways*, U. S. Army Corps of Engineers, Institute of Water Resources, Ft. Belvoir, Virginia, July 1987. Note: Negative values are in parentheses

ii. Diverted Cargo: cargo may be diverted to a port facility either from other modes of transportation or from other routes. As cargo diversion can occur due to cost differentials in competing modes or routes, comparative cost studies must be presented to justify these cargo flows. If cargo diversion occurs due to establishment of new industries at the waterfront, these location decisions have to be analyzed and justified.

iii. Generated Cargo: new industrial and agricultural developments in an area can increase output and these developments may translate into new traffic. In such cases, these sources must be identified and new cargo must be analyzed in terms of volumes, origins and destinations. The total traffic generated must be distributed to different transport modes based on cost considerations.

iv. Origins/Destinations: identify the major origins, routes, and destinations of the forecasted cargos which will use the project. Indicate what route the goods would move if the project is not built. Would the cargo be routed to another facility at the port, via another port in Louisiana, via a port outside of Louisiana, or via a non-water transport means?

c. Cargo Handling Revenue

Once the new cargo has been forecast, the revenue to be derived may be estimated. Use existing port tariff rates to make these estimates.

d. Industrial Development

What new industrial development would result from the project; without the project, where would this development otherwise occur?

e. Prospective Industrial Tenants

List prospective industrial tenants, indicate if confidential. If tenants are to be located at the waterfront, sufficient reasons have to be provided that such a location is critical to their operations.

f. Letters of Commitment

Include letters of commitment from users, indicate if confidential. Discuss whether commitments have already been made in terms of investments and planning and what other assurances are available to the port that the commitments will be met. If the viability of the project depends on these commitments, sensitivity analyses should be conducted to analyze the alternatives available to the port in the event the commitments are not met by the port users.

g. Other Factors

Discuss other factors that may justify the proposed project.

4. Preliminary Design, Plans and Cost Estimate

To further describe the proposed port improvement, provide a brief discussion of the design, preliminary plans, and cost estimate. The level of detail of the design, plans, and cost estimate should be adequate to allow developing final plans in approximately six to eight months since a con-

struction contract should be awarded within one year of project funding.

a. Design Criteria

The design criteria needed to obtain the stated benefits are to be submitted as Attachment B.

b. Design Calculations

Design calculations are to be submitted as Attachment C.

c. Preliminary Construction Plans

The plans shall be included as Attachment F. The level of detail shall be sufficient to conceptually convey the project components and requirements.

d. Cost Estimate

The detailed cost estimate for the project shall identify construction costs, land, mitigation, engineering, legal, and administration. Recurring maintenance costs shall also be estimated and included in this section. The estimate should detail the costs of equipment and construction activities to at least the level to allow verification of the estimate. For each component provide the description, quantity, unit of measure and unit price. Avoid the use of lump sum, where possible. In addition to the above, estimates of related investments made by the industrial tenants also have to be included to take account of the cost of the total project. If, for example, an industrial development is anticipated consequent to the project and benefits are claimed, associated costs should also be included as total project costs.

e. Progress Schedule

Provide an anticipated progress schedule for plan preparation and construction of the project, by phases if applicable. Indicate the beginning and ending dates for both.

5. Determination of Benefits to the State

a. General

Benefits from the proposed project will be evaluated from the state's point of view, which includes the taxpayer's point of view and the port's point of view. All of the benefit will not be derived until the investment for the total project has been made and all of the necessary components are adequate. Estimating these benefits is a key element in the application process. Sufficient attention should be given to substantiate procedures adopted in quantifying benefits and in providing supporting documents. Overall, benefit estimates should be logical, verifiable, and based on sound judgement and acceptable industry norms. Claimed benefits will be adjusted to conform to industry norms unless adequate justification is provided. In order to make a proper allocation of funds among the requests, it is necessary to have a clear understanding of each project's expected net benefits to the state. The term *net benefits* means the difference in the benefits to be derived "with the project" and those to be derived "without the project". For example, when port improvements are implemented, there is usually a higher level of facility costs, mostly for construction. This is offset by the benefits including a reduced level of other costs (vessel operating costs, cargo handling costs, maintenance costs, etc.). There may be an increase in economic activities, improved (or worsened) environmental consequence, etc. All of these benefits are relative, i.e., they are based on the spread between what would happen with the new project vs. what would happen without the new project. In other words, to determine the benefits, it is necessary to evaluate the cargo flow projection, transportation costs savings, impact on other Louisiana ports, etc., without the project as well as with the

project. Only then can the costs and gains under both scenarios be compared. The difference is the net benefits to be derived.

b. Revenues and Expenses

Estimate the port revenues for both the with and without project conditions. Also estimate the operating expenses with and without the proposed project (e.g. labor, utilities, etc.). These estimates have to be based on present and future port tariff rates or conform to industry norms. Only projects that will realize a minimum rate of return of 3.70 percent as net port revenue for the state's investment will be funded by the program.

c. Number of jobs

Indicate the number of permanent jobs that would be created and/or existing jobs saved from implementing the project. How many of these jobs are port related and how many are industrial jobs, what is the total payroll for each; without the project, where would these jobs otherwise be created? Do not include temporary jobs created by construction activities. The estimate of number of new jobs created shall conform to industry norms such as capital investment/worker and volume of cargo handled/worker and number of employees per firm. If jobs are displaced elsewhere in the state, these jobs shall be subtracted from the jobs created or saved by the project. Figure 2 indicates the employment profile for major port related industries in Louisiana. The average number of employees per firm provides the typical characteristics of a firm. It should be noted that a large percentage of firms employ less than 50 workers. Therefore, employment estimates must be justified on a case-by-case basis analyzing the nature of operations of the prospective industrial tenants. In general, it is likely that ports in rural areas with less populations support smaller firms and the few large firms are supported by large metropolitan areas. There may be exceptions to this general rule.

CLASSIFICATION OF COMMERCIAL FIRMS IN LOUISIANA												
BY EMPLOYMENT SIZE												
INDUSTRY CATEGORY	NUMBER OF EMPLOYEES	NUMBER OF FIRMS	AVERAGE NUMBER OF EMPLOYEE PER FIRM	NUMBER OF FIRMS BY EMPLOYEE SIZE								
				5-9		20-49		100-249		500-999		
				1-4	10-19	50-99	250-499	1000+				
Agricultural Services, Forestry and Fishing	5,093	919	6	593	215	77	27	5	1	1	0	0
Mining	55,505	1,731	32	753	273	254	234	96	75	36	7	3
Manufacturing	163,435	3,664	45	1,254	677	616	537	259	200	74	32	15
Lumber and Wood Products	11,400	653	17	276	157	116	64	14	19	7	0	0
Paper and Allied Products	10,820	56	193	4	3	7	6	11	11	7	6	1
Chemical and Allied Products	23,840	235	101	58	28	37	32	29	23	17	7	4
Petroleum and Coal Products	9,793	57	172	13	4	5	12	4	9	4	4	2
Stone, Clay and Glass Products	5,116	211	24	53	40	53	44	15	5	0	1	0
Fabricated Metal Products	10,675	300	36	99	54	59	50	18	13	4	2	1
Trucking and Warehousing	19,148	1,309	15	668	230	187	153	49	17	4	0	0
Water Transportation	20,520	856	24	360	174	132	99	45	35	9	1	1
Water Transportation Services	14,276	665	21	262	151	109	78	35	24	5	1	0
Marine Cargo Handling	6,031	104	58	23	21	19	15	8	12	5	1	0
Towing and Tugboat	4,862	292	17	96	76	55	44	15	6	0	0	0
Marinas	665	66	10	35	16	9	3	2	1	0	0	0
Other	2,718	203	13	108	38	26	16	10	5	0	0	0
Transportation Services	5,401	538	10	294	152	52	29	6	4	0	0	1
Freight Transportation	3,011	199	15	100	55	25	14	3	1	0	0	1
Railroad Car Rental	17	5	3	4	1	0	0	0	0	0	0	0
Miscellaneous	754	48	18	18	12	8	6	3	1	0	0	0

Figure 2. CLASSIFICATION OF COMMERCIAL FIRMS IN LOUISIANA BY EMPLOYMENT SIZE: Source: *County Business Patterns, 1988 Louisiana*, U. S. Department of Commerce, Bureau of the Census, Oct. 1990

d. Payroll Benefits

Standard payroll estimates provided in Figure 3 shall be used in estimating payroll benefits in order to equitably evaluate applications for funding through the program. If job benefits are assumed to continue unchanged into the future, then an implication is made that those individuals employed as a result of the project would not otherwise find employment. This is not reasonable, as employment will ebb and flow over time. As true net benefits from employment diminish overtime, the payroll benefits resulting from the project have to be allowed to decay in a linear fashion annually, reaching zero at the end of 10 years.

AVERAGE ANNUAL EARNINGS BY CATEGORY FOR PORT RELATED INDUSTRIES	
Work Category	Average Annual Earnings
Managerial	\$40,000
Supervisory, Stevedore and Skilled Workers	25,000
Factory Workers	20,000
Clerical, Unskilled and Misc.	15,000

Figure 3. AVERAGE ANNUAL EARNINGS BY CATEGORY FOR PORT RELATED INDUSTRIES

e. Spin-off Benefits of Payroll

New payroll generated by the project results in spin-off benefits in the local economy. In order to calculate the spin-off benefits, assume that they are equal to the payroll benefits directly created or maintained by the project. If a project will have \$100,000 payroll benefits in a year, then the spin-off benefits also equal \$100,000. Spin-off benefits will also decay in a linear fashion annually, reaching zero at the end of 10 years.

f. Shipping Costs

If the proposed project will alter shipping costs, identify these costs with and without the project. Cost estimates should conform to general industry norms.

g. Other Benefits

Identify any other benefits that would result from the project.

h. Benefits-Costs Tabulation

Tabulate the project's benefits and costs over a 10-year period. Remember that all the benefits will not be derived until all of the components that are identified in "Adequacy of Components" are implemented and are adequate.

6. Description of Project Area

Provide a narrative description of the project area. The description shall include the location of the existing port, navigable waterways to the port, rail and highway access, location of neighboring ports competing for cargo, unemployment rate, land use adjacent to the port, and soil conditions in and around the port. Identify all major commodities which are handled by competing ports.

7. Impacts of Implementing Proposed Project

a. An assessment of the impacts associated with the implementation of the proposed project shall be submitted. Usually the economic, environmental, and other impacts shall be identified. A detailed environmental assessment is not required by this program but may be required to obtain certain permits.

b. The economic impacts may be indicated by the number of permanent jobs created or saved and the annual payroll resulting from the proposed port improvement. This

information is reported in Paragraph 5 of this Section, "Termination of Benefits to the State."

c. The environmental impacts shall be identified as to the effects on the following:

- i. water quality;
- ii. habitat modification;
- iii. fish and wildlife resources;
- iv. cultural, historical, and archeological features.

d. Any other impact(s) shall also be identified. The impact of the proposed project on other ports in the state, (e.g., diversion of cargoes or industrial activities, etc., from other state's ports) shall be stated.

e. The assessment is to indicate whether the impacts are short-term or long-term, direct or indirect, and adverse or beneficial. Applicants may seek comments from appropriate state and federal agencies. A list of state and federal agencies and their mailing addresses follows as Appendix D.

8. Master Plan for Port

Discuss how the proposed project complies with the port's master plan or why it does not. Indicate when the master plan was adopted by the port authority. Copies of the master plan are to be submitted with the application as Attachment I.

9. Other Information

a. Funding Sources

Identify all sources of funding, including the local share. Indicate if an application for other funds has been submitted and if a commitment has been received.

b. Local Share

Is your 25 percent local share available? Include as Attachment A, a certified copy of a resolution adopted by the port similar to the draft resolution (See Appendix A).

c. Multi-Year Projects

If the project will require more than one year to complete, summarize the anticipated investment schedule required for full completion of the proposed project.

d. Permits. List all necessary permits, indicate the status of permit acquisition, and indicate project compliance with permit requirements.

C. Attachments

1. Resolution. Provide certified copies of the resolution adopted by the port authority similar to the sample resolution in the appendix indicating that the port authority is knowledgeable and is agreeable to its duties and responsibilities in participating in the Port Development and Construction Priority Program and in particular has its local match.

2. Design Criteria. Include the design criteria necessary to properly design the project.

3. Design Calculations. Include the design calculations and soil investigations; the level of detail of the design should be sufficient to allow the award of a construction contract within the year of funding.

4. Engineering Report. Provide copies of the engineering report.

5. Layout of Existing and Proposed Facilities. Submit a layout of existing and proposed facilities.

6. Preliminary Construction Plans. Enclose preliminary construction plans in sufficient detail to allow the award of a construction contract within a year of funding.

7. Financial Statements. Provide financial statements for the last five years. The financial statements shall show assets, liabilities, profit and loss and include the accountant's letter transmitting the statement to the port authority and notes of explanation.

8. Cargo Tonnage. List the total amount of cargo by commodity for the port for the same periods covered by the financial statements. The commodity classification shall be the commodity classification for domestic waterborne commerce.

9. Port's Master Plan. The port's master plan is to be submitted with the application. If the port does not have a master plan then submit a layout of existing facilities and an explanation why the port does not have a master plan.

10. Commenting Agencies. Letters of comment from appropriate state and federal agencies responding to applicant's solicitation of views, if appropriate.

11. Other Attachments. Any other attachments that may be helpful in evaluating the proposed project may be included as other attachments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

§111. Evaluation

A. Analysis

In determining a score to prioritize the request for funds, the following factors will be considered:

1. technical feasibility;
2. economic feasibility;
3. economic impacts;
4. environmental and other impacts;
5. port management.

a. Technical Feasibility. Indicators of technical feasibility are as follows:

- i. completeness of project design;
- ii. appropriate consideration of alternatives;
- iii. compatibility of project to port's master plan;
- iv. level of detail of preliminary plans (should be adequate to allow award of a construction contract within a year but still allow input from the department);
- v. items of work as shown in the cost estimate are at a

level of detail that may be readily verified.

b. Economic Feasibility. The primary factor in determining economic feasibility is the benefit cost ratio. For purposes of evaluation, the investment is the amount of program funds needed for the proposed port improvement project. If the project life exceeds the evaluation period, which is 10 years, then the benefit cost evaluation shall include the value of the project after the evaluation period. For evaluation purposes this value shall be considered the salvage value. Said value shall be determined using the straight line method for depreciation and shall be tabulated as a benefit. Other elements considered are as follows:

- i. how rational and accurate are the projections;
- ii. supporting documentation;
- iii. risk factors.

c. Economic Impacts. The economic impacts are to be analyzed by the number of permanent jobs created or saved by the port improvement project after construction.

d. Environmental and Other Impacts. The parameters used to evaluate the environmental and other impacts are as follows:

- i. no adverse impact on significant historical, archeological, geological features, or environmentally sensitive areas;
- ii. no wetland loss;
- iii. letters of support from legislative delegation;
- iv. no letters of objection;
- v. environmental mitigation measures such as bank stabilization and reduction of soil erosion.

e. Port Management. The primary factor in appraising the management of the port is the average return on investment for the last five years.

f. Location. The elements in assaying the port's location are as follows:

- i. adequacy of the navigable waterways;
- ii. suitable railroad access;
- iii. ample highway facilities;
- iv. location of nearest competing port.

g. Multi-Year Projects. Multi-year projects will receive priority over new projects after the initial year of funding, provided the years are consecutive and the implementation of the previous year components was in accordance with the Program Procedure Manual.

B. Methodology

1. The procedure for evaluating applications for funding is as follows:

a. Completeness. If application is complete, then proceed, otherwise advise applicant so that he may provide missing data for funding consideration next year.

b. Need. Is the need verifiable and real? If not then application will be rejected.

c. Location. The port must be located on an adequate navigable waterway, and upon completion of the proposed port improvement, have sufficient rail and/or highway access. Also, the port must be situated so that the improvement will not just shift trade from one Louisiana port to another. Noncompliance will result in rejection.

d. Return on Investment. Only projects that have a rate of return on investment of 3.70 percent or more for port revenue less expenses for the state's investment shall be funded by the program.

e. Benefit-Cost Ratio. Only projects that have a benefit-cost ratio equal to one or more shall be funded by the

program. In calculating the B/C for this criteria, the cost shall be the total investment, both private and public, needed to implement the total project and derive the benefits. Note that the B/C used in the economic feasibility is based on program funds in lieu of total investment.

f. Technical Feasibility. (45 points) To proceed, the technical feasibility score must be 15 or more.

g. Economic Feasibility. (100 points) The project with the highest benefit-cost ratio receives the maximum points. The other projects are pro-rated. The cost used in this B/C calculation will be the amount of program funds required for the project.

h. Economic Impacts. (20 points) The project which creates or saves the most jobs per state investment receive the maximum points. The others are pro-rated.

i. Environmental Impacts. (15 points) A project with no adverse impacts would receive 10 points. To receive 15 points a project would have to enhance the environment.

j. Management of Port. (20 points) The port with the highest rate of return on investment for the last five years will receive 20 points. The others are pro-rated.

2. After the applications have been analyzed, they shall be graded by the department according to the point system above. The projects will then be prioritized by score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

§113. Distribution of Funds

A. Program funds shall be distributed in accordance with the approved construction program. No more than 20 percent of the amount of funds appropriated shall go to one port. If all the projects on the recommended list of projects have been funded, then any remaining funds shall be redistributed on a pro-rata basis in priority order to the projects that have been limited by the 20 percent limitation.

B. Should the funding level be insufficient to fund all the projects that have been recommended, then the unfunded projects will re-compete for funds the following year. An unfunded project may be included in the recommended list of projects up to four years without the port authority re-submitting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 34:3451 through 3463.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Division of Flood Control and Water Management, LR 18: (July 1992).

Appendix A: Resolution Form

RESOLUTION

A Resolution authorizing the (port authority) to prepare and submit an application to the Louisiana Port Construction and Development Priority Program for assistance in the implementation of a port improvement project; providing for the necessary documentation of the need for the port improvement; and providing for other matters in connection therewith.

WHEREAS, (port authority) has a need for port improvements; and

WHEREAS, (port authority) desires to apply for state matching funds pursuant to Chapter 47 of Title 34 of the Louisiana Revised Statutes of 1950, as amended, to imple-

ment a project to improve its port operation and the (port authority) is fully aware of its obligations under said statute; and

WHEREAS, (port authority) is a political body duly organized and existing under the laws of the State of Louisiana and is eligible to apply for funds under said Statute,

NOW, THEREFORE, BE IT RESOLVED by the (port authority) as follows:

Section 1. That (port authority) acknowledges that a formal application will be prepared and submitted to the Louisiana Port Construction and Development Priority Program.

Section 2. That at the appropriate time and upon approval of funding assistance and prior to commencement of work on the project (port authority) agrees to execute a project agreement and a statement of sponsorship pursuant to the statute.

Section 3. That (authorized representative) (title) is hereby designated Authorized Representative for (port authority) to effect the preparation of an application to the Louisiana Port Construction and Development Priority Program for funding assistance or a port improvement project.

Section 4. That said authorized representative's responsibilities shall pertain to technical matters only and shall not include any official act on behalf of the (port authority).

This _____ day of _____, 19_____.

Secretary

Presiding Officer

(Port Authority)

Appendix B: Application Format

All applications submitted for funding through the Port Construction and Development Priority Program shall be prepared in accordance with the following format:

- i. Title Page
 - a. Parish
 - b. Project Name
 - c. Priority
 - d. Application Title
 - e. Name of Port Authority
 - f. Legislative Delegation
 - g. Preparer
 - h. Date
1. Description of Proposed Project
 - a. Nature and Goals
 - b. Funds Requested
 - c. Alternatives
 - d. Adequacy of Components
2. Demonstration of Immediate Need for Project
 - a. Cargo History
 - b. Market Analyses
 - i. Extrapolation from Past Trends
 - ii. Diverted Cargo
 - iii. Generated Cargo
 - iv. Origins/Destinations
 - v. Cargo Handling Revenue
 - c. Industrial Development
 - d. Prospective Industrial Tenants
 - e. Letters of Commitment
 - f. Other Factors

3. Preliminary Design, Plans and Cost Estimate
 - a. Design Criteria
 - b. Design Calculations
 - c. Preliminary Construction Plans
 - d. Cost Estimate
 - e. Progress Schedule
4. Determination of Benefits to the State
 - a. Revenues and Expenses
 - b. Number of Jobs
 - c. Payroll Benefits
 - d. Spin-off Benefits of Payroll
 - e. Shipping Costs
 - f. Other Benefits
 - g. Benefits-Costs Tabulation
5. Description of Project Area
6. Impacts of Implementing Proposed Project
7. Master Plan for Port
8. Other Information
 - a. Funding Sources
 - b. Local Share
 - c. Multi-Year Projects
 - d. Permits

Attachments

- A. Resolution
- B. Design Criteria
- C. Design Calculations
- D. Engineering Report
- E. Layout of Existing and Proposed Facilities
- F. Preliminary Construction Plans
- G. Financial Statements
- H. Cargo Tonnage
- I. Port's Master Plan
- J. Commenting Agencies
- K. Other Attachments

Appendix C. Information Sources

Information and data that may be useful in estimating the costs and benefits and in completing the project application is available from a number of sources. Some of these sources are local records from engineers, marketing surveys conducted by private firms, local industry performance standards, and performance records of the port. Selected references from federal, state, and local agencies are listed and described below.

Louisiana Labor Market Information, Louisiana Department of Employment and Training, Baton Rouge, Louisiana — A monthly publication providing the following labor market information by parishes and by major metropolitan statistical areas (MSA) in Louisiana:

1. the Louisiana economic situation;
2. non-agricultural wage and salary employment;
3. average hours and earnings in manufacturing;
4. consumer price index;
5. employment and payroll trends.

Directory of Louisiana Manufacturers, Louisiana Department of Economic Development, Baton Rouge, Louisiana — Presents data on the following:

1. companies located in Louisiana and products manufactured;
2. companies employing more than 250 workers;
3. manufacturers of specific products in Louisiana by standard industrial classification (SIC) codes;

4. parent firms of companies.

U.S. Army Corps of Engineers, *Waterborne Commerce of the United States*, Part 1-5, Department of the Army, Water Resources Support Center, Fort Belvoir, Virginia — The data collected in this publication consists of vessel and cargo movement information reported to the Corps of Engineers by carriers engaged in commercial transportation of goods on the navigable waterways and international trade and also international trade data provided by the Bureau of the Census. Part 2 of this publication covers waterways and harbors in the Gulf Coast and Mississippi River System. Current issues of this publication can be obtained from the Commander, U.S. Army Engineers District, Box 60267, New Orleans, LA 70160-0267.

U.S. Army Corps of Engineers, Other Data Sources:

Public Domain Database: Contains aggregated information which depicts waterborne commodity movement between different regions and states sorted by origin, by destination, and by commodity. *Special Requests for Waterborne Commerce Statistics*: The Waterborne Commerce Statistics Center (WCSC) handles special requests for statistics on a case-by-case basis. These requests are characterized by the need for information not contained in the aforementioned Waterborne Commerce of the United States.

For more information on data sources available to the public from the U.S. Army Corps of Engineers, request a free copy of *Products and Services Available to the Public* from Data Request Office, Waterborne Commerce Statistics Center, U.S. Army Corps of Engineers, Box 61280, New Orleans, LA 70161-1280.

Port Import/Export Reporting Services (PIERS), *Journal of Commerce, Inc.*, New York — PIERS data services provides detailed information on foreign trade, identifying commodity descriptions, origins and destinations, consignees and shippers, and tonnage of individual shipments. This data can be selected to suit individual specifications and obtained on tape, diskette, or hard copy reports.

County Business Patterns, 1988 Louisiana, U.S. Department of Commerce, Bureau of Commerce, Bureau of the Census, U.S. Government Printing Office, Washington, D.C., 1990 — Provides information on industrial establishments, number of employees, payrolls by major groups of industries and by individual parishes.

1987 Census of Manufacturers - Geographic Area Series - Louisiana, U.S. Department of Commerce, Bureau of the Census, U.S. Government Printing Office, Washington, D.C., 1990 — This publication provides the following aggregate data on commercial establishments by parishes and metropolitan areas:

- a. number of companies, employment and payroll, production worker-hours, and worker-wages;
2. value of shipments, cost of materials, and value added;
3. beginning and end of year inventories;
4. expenditures, assets, rents, and purchased services.

Agricultural Statistics and Prices for Louisiana, Louisiana Agricultural Experiment Station, Louisiana State University Agricultural Center, Baton Rouge, Louisiana — This publication provides data on agricultural product prices, average value of farm assets, acreage, and production.

Other Publications:

Moving America - New Directions, New Opportunities,

A Statement of National Transportation Policy Strategies for Action, U.S. Department of Transportation, Washington, D.C., February 1990.

National Transportation Strategic Planning Study, U.S. Department of Transportation, Washington, D.C., March 1990.

Appendix D. State and Federal Agencies

Mr. Bradely E. Spicer, Asst Commissioner
Dept. of Agriculture and Forestry
Office of Soil and Water Conservation
Box 44455
Baton Rouge, LA 70804

Mr. Leslie P. Tassin
State Historic Preservation Officer
Dept. of Culture, Recreation and Tourism
Office of Cultural Development
Box 44247
Baton Rouge, LA 70804

Mr. Marion T. Fannaly
Dept. of Environmental Quality
Box 44091
Baton Rouge, LA 70804

Mr. Terry W. Howey, Director
Coastal Management Division
Dept. of Natural Resources
Box 44487
Baton Rouge, LA 70804-4487

Mr. P. J. Frederick
DOTD Maintenance Engineer Administrator
Dept. of Transportation and Development
Box 94245
Baton Rouge, LA 70804-9245

Secretary
Dept. of Wildlife and Fisheries
Box 98000
Baton Rouge, LA 70898

U. S. Army Corps of Engineers
New Orleans District
Box 60267
New Orleans, LA 70160-0267
OR

U. S. Army Corps of Engineers
Vicksburg District
Box 60
Vicksburg, MS 39180

Mr. Harry Hawthorne, State Conservation Engineer
Soil Conservation Service
3737 Government Street
Alexandria, LA 71302

Jude W. P. Patin
Secretary

RULE

**Department of Transportation and Development
Office of the Secretary
Public Transportation**

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development has adopted the following rule on the subject of speed restrictions for railroad traffic, in accordance with the provisions of R.S. 48:389.

Title 70

**DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT**

Part IX. Office of Public Transportation

Chapter 7. Speed Restrictions for Railroad Traffic

§701. General Procedure for Municipality Request

In accordance with the provisions of R.S. 48:389, the Department of Transportation and Development has set forth the following procedures for compliance therewith.

A. In order to establish speed restrictions for railroad traffic within the specified areas of corporate limits of a municipality, the governing body of said municipality shall adopt a resolution and forward it to the director of the Public Transportation Section, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804. This written request in the form of a resolution shall contain the following:

1. name of the railroad carrier or company to be affected and location of the railroad track to be affected, giving exact locations where the restricted speed limit(s) are requested;

2. documentation and explanation of the unique characteristics of the essentially local safety hazard that is sought to be eliminated or reduced, including documentation of all accidents or incidents;

3. regulatory and warning devices in existence and location of each;

4. applicable automobile speed limits at any affected railroad crossing(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§703. Notification of Railroad

Upon receipt of the request by the municipality, the director of Public Transportation shall contact the affected railroad(s) through the local railroad office. If unable to locate a local office, the director shall seek the assistance of the general counsel and legislative representative, Louisiana Railroads, Baton Rouge, LA. A copy of the request of the municipality shall be forwarded to the affected railroad.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§705. Investigation

Prior to the evidentiary hearing referred to below, the department, through its appropriate district office, shall conduct an investigation of the particular site regarding the problem within the municipality and shall furnish a written report

containing its findings to the director of Public Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§707. Notification

Prior to the evidentiary hearing referred to below, the department shall publish in the "Potpourri" Section of the *Louisiana Register* notice of the date, time and place of the evidentiary hearing. Copies of the notice shall also be sent to the affected parties and other parties who have expressed an interest in the railroad speed limit being considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§709. Location of Public Hearing

The public hearing to be conducted by the Department of Transportation and Development shall take place at the DOTD Headquarters Building, 1201 Capitol Access Road, Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§711. Public Hearing

A committee shall be formed within the department to conduct the public hearing, accept evidence, and render written reasons for its findings. This procedure shall be conducted in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and R.S. 48:389. Said committee shall be composed of representatives of the following sections appointed by the secretary of the department: Public Transportation Section; Legal Section; Maintenance Section; Traffic and Planning Section. The committee shall publish necessary rules in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§713. Appeal

An appeal may be made of the decision of the hearing committee by the affected party(s) as provided in the Administrative Procedure Act. Said appeal may be made to the appropriate State District Court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

§715. Regulation Order

Following adoption of the administrative rule establishing a railroad speed limit, a Regulatory Order shall also be filed within the Department of Transportation and Development and shall be filed in the office of the Clerk of Court in the parish affected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:389.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Public Transportation, LR 18: (July 1992).

Jude W.P. Patin
Secretary

RULE

**Department of Treasury
Deferred Compensation Commission**

Louisiana Public Employees Deferred Compensation Plan

The Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission, effective September 15, 1982. The plan was established in accordance with R.S. 42:1301 through 42:1308 and Section 457 of the Internal Revenue Code of 1954, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the plan.

Effective August 1, 1992, the plan is hereby amended and restated in its entirety. The restated plan shall supersede all plans and rules previously adopted in connection with the Louisiana Public Employees Deferred Compensation Plan.

Article I. Definitions

Beneficiary — person or persons entitled to receive a deceased participant's interest in deferred compensation in accordance with the terms of the plan.

Code — the Internal Revenue Code of 1954, as amended (or a successor statute).

Commission — the Louisiana Deferred Compensation Commission established in accordance with R.S. 42:1302, which commission shall be comprised of the state treasurer, the commissioner of administration, the commissioner of insurance, the commissioner of financial institutions (or their designees), and three participant members (elected by the participants).

Compensation — all remuneration paid by the employer to the employee or independent contractor for services rendered, in the taxable year, including salaries and fees.

Deferred Compensation — the portion of a participant's compensation which such participant and the commission agree to defer pursuant to the terms of the plan.

Employee — any individual, including an individual who is elected or appointed, providing personal services to the employer; provided, however, that an independent contractor shall not be treated as an employee.

Employer — the state of Louisiana, or any political subdivision of the state and any agency or instrumentality of the state or of a political subdivision of the state.

Includible Compensation — all compensation, of whatever kind, for services performed for the employer that is currently includible in the participant's gross income, for federal income tax purposes, determined without regard to any community property laws. Includible compensation does not include compensation excludable from the participant's gross income under Section 457 of the Code as a result of

deferrals under this plan or any other eligible deferred compensation plan, described in Section 457(b) of the Code maintained by the employer, or under any other provision (including, but not limited to Section 105(d), 401(k), 402(a), 402(h) (1) (B), 403(b), 408(k) and 911) of the Code.

Independent Contractor — an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in accordance with a contract between such individual and the employer.

Interest or Interest in Deferred Compensation — Under the plan, the aggregate of:

1. a participant's deferred compensation for his or her entire period of participation in the plan, and
2. the earnings or losses allocable to such amount; such interest represents an accounting entry only and does not constitute an ownership interest, right or title in the assets so invested.

Investment Product — any form of investment designated by the commission for the purpose of receiving funds under the plan.

Normal Retirement Age — the age designated by a participant, which age shall be between:

1. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member, and
2. age 70½, provided, however that if a participant continues in the employ of the employer beyond 70½, normal retirement age means the age at which the participant separates from service.

If the participant is not a member of any public retirement system, the participant's normal retirement age may not be earlier than age 55.

Participant — an individual who is eligible to defer compensation under the plan, and has executed an effective deferral authorization. Participant also includes an employee or independent contractor who has separated from service but has not received a complete distribution of his or her interest in deferred compensation under the plan.

Pay Period — a regular accounting period designated by the employer for the purpose of measuring and paying compensation earned by an employee or independent contractor.

Plan — the Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

Separation from Service or Separates from Service — with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's:

1. retirement,
2. discharge by the employer,
3. resignation,
4. layoff, or
5. in the case of an employee who is an appointed or elected officer, the earlier of:
 - a. the taking of the oath of office of such officer's successor, or
 - b. the cessation of the receipt of compensation.

If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a separation from service.

With respect to an independent contractor, separation from service means the expiration of all contracts pursuant to which services are performed for or on behalf of the employer.

Unforeseeable Emergency — a severe financial hardship resulting from:

1. the sudden or unexpected illness or accident of a participant or a participant's dependent, or
2. the loss of a participant's property due to a casualty or other similar extraordinary and unforeseeable circumstance beyond the control of the participant. A financial need created by an educational expense, a participant's desire to purchase a home or other foreseeable expense which is under the control of the participant shall not constitute an unforeseeable emergency.

Article II. Eligibility and Participation

A. Deferral Authorization.

1. For purposes of this Article, the term *deferral authorization* means a form, provided by the commission, which provides for:

- a. the designation of an amount (or percentage) of compensation to be deferred by a participant;
- b. the designation of an investment product or products and the amount (or percentage) of deferred compensation to be allocated to each such investment product or products;
- c. the designation of a participant's beneficiary;
- d. such additional elections or information as may be required by the commission.

2. The commission shall be entitled to rely on the information provided by the participant in connection with his or her deferral authorization; the commission shall have no obligation to verify, at any time, the accuracy of such information.

B. Eligibility. All employees and independent contractors receiving compensation shall be eligible to participate in the plan, including employees who are members of the commission.

C. Participant. An employee or an independent contractor eligible to participate in the plan shall become a participant upon the acceptance by the commission of his or her completed deferral authorization.

Article III. Deferrals

A. Amount of Deferral. The following special rules apply to compensation deferred under the plan:

1. A participant may not defer any compensation for a calendar month unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such month. With respect to a new employee, compensation will be deferred in the calendar month during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed before the first day on which the participant becomes an employee.

2. The minimum amount of compensation deferred under a deferral authorization shall be no less than \$20 each month; provided, however, that such minimum deferral shall not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (Section 11332 of the Social Security Act and Section 3121 of the Code).

3. The regular maximum amount of compensation which may be deferred (voluntary and/or involuntary), during a calendar year shall not exceed the lesser of:

a. 33 1/3 percent of a participant's includible compensation (approximately 25 percent of compensation), or

b. \$7,500. Such amount shall be reduced dollar for dollar, for any amounts excludable from the participant's gross income attributable to deferrals to other eligible plans described in Sections 457, 403(b), 401(k), 408(k) or 501(c) (18) of the Code. At the time of initial enrollment and at all times thereafter, the participant must notify the commission of any amounts of income deferred under the plans listed above, or any subsequent changes in participation in any other such program.

B. Catch-Up. A participant may be eligible to contribute a *catch-up* amount in addition to the regular maximum amount (the lesser of \$7,500 or 33 1/3 percent of includible compensation) to be deferred in each of the last three consecutive calendar years ending before normal retirement age. If a participant is not a member of a public retirement system, normal retirement age may not be earlier than age 55. The catch-up provision is limited to the amounts which could have been deferred, but were not, within the plan's limits in prior calendar years since 1979, or the date of employment, if later. The maximum combined limit which may be deferred under the regular maximum amount and as a catch-up in each of those three years is \$15,000 per year, reduced dollar for dollar by any amount deferred in each of those three years under another eligible 457 plan, a 403(b) tax shelter annuity, a 401(k) cash or deferred arrangement or a 408(k) simplified employee pension (SEP).

1. No participant shall be permitted to defer in excess of the regular maximum amount (as set forth in Article III.A) during the calendar year of retirement. If a participant makes deferrals under the catch-up provision in the year of his or her retirement, those funds in excess of the limitations set forth in article III. A shall be refunded and shall not include earnings nor charges.

(Explanatory Note: Because of market conditions at the time of such refund, the refund could be less than the difference between the total sum deferred and the maximum established by Article III.A).

2. This plan does not permit the catch-up provision to be used more than once in this plan, or any other eligible deferred compensation plan, even if catch-up was used in less than all three of the years preceding normal retirement age.

3. The participant is solely responsible to amend the participant's deferral authorization to elect catch-up, and must amend the agreement again when catch-up is completed.

C. Modification of deferral authorization. The following special rules apply to the modification of a participant's deferral authorization:

1. **Amount.** A participant shall be entitled to reduce the amount (or percentage) of deferred compensation allocable to an investment product once each calendar quarter. A participant shall be entitled to increase deferred compensation allocable to an investment product at any time during a calendar year.

2. **Designation of Investment Products.** A participant shall be entitled to modify his or her designation of

investment products once each calendar month.

3. **Form of Modification.** A modification permitted under Article III.C shall be made, in writing, on forms provided by the commission. Any such modification shall become effective no later than the commencement of the first pay period which begins at least 30 days after receipt and approval by the commission; provided, however, that the commission shall not be liable for any delay which occurs despite its good faith efforts. The participant may modify the deferral authorization via telephone, if a signed authorization form, approved by the commission has been received at least 30 days prior to the initial request.

D. Revocation of deferral authorization. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except in accordance with the provision of Article IV.

E. Duration of deferral authorization. A deferral authorization shall continue in effect until:

1. a participant experiences a separation from service, or

2. such deferral authorization is modified or revoked in accordance with the provisions of this Article III.

Article IV. Distributions and Withdrawals

A. Distribution Events. If a participant incurs a separation from service, or receives a determination of unforeseeable emergency, all or a portion of the interest of such participant in deferred compensation under the plan shall be distributed to such participant in accordance with the provisions of this Article IV.

B. Form of Distribution.

1. A participant shall be entitled to select the method of distribution of his or her interest in deferred compensation under the plan in accordance with Article IV.B; provided, however, that a single-sum distribution shall be made if a participant's (or beneficiary's) interest is \$2,000 or less.

2. A participant shall initially designate the method of distribution applicable to his or her interest in deferred compensation under the plan, in writing, on forms acceptable to the commission; a participant may designate a separate form of distribution for each investment product in which his or her interest is invested. A participant shall be entitled to modify such designation, in writing, on forms acceptable to the commission. Any such modification must be filed with the commission on or before the thirtieth day prior to the date on which distributions are scheduled to commence in accordance with the provisions of article IV. D. An election as to the method of distribution shall become irrevocable at the close of the thirtieth day prior to the date on which distributions are scheduled to commence. If the participant does not make an election, a single-sum payment will be made.

3. Distributions shall be made in the form of:

a. a single-sum payment; or

b. monthly, quarterly, semi-annual or annual installment payments for a designated term which is not in excess of:

i. the life expectancy of the participant, or
ii. the joint and last survivor life expectancy of the participant and his or her spouse. If a participant elects installment payments as a method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600.

c. annuity payments of a specified amount, specified period, fixed life annuity with guaranteed payments, fixed life annuity, joint and one-half survivor fixed annuity, and any other form acceptable between the commission and administrator.

C. Amount of Distribution. In the case of a distribution beginning before the death of the participant, such distribution will be made in a form under which: at least one-half of the total amount payable with respect to the participant will be paid during the life expectancy of such participant (determined as of the commencement of the distribution), and any amount not distributed to the participant during his life will be distributed after the death of the participant at least as rapidly as under the method of distributions being used as of the date of his death.

D. Time of Distribution.

1. If a participant separates from service before he or she attains age 70½, the distribution of such participant's interest in deferred compensation under the plan shall be made no later than 60 days following the close of the calendar year in which the participant separates from service; provided, however, that such participant shall be entitled to irrevocably elect to defer the commencement of distributions to some fixed or determinable future date, provided, however, that distributions must commence no later than April 1, following the calendar year in which the participant attains age 70½. Any such election to defer the commencement of distributions shall be filed with the commission on or before February 1, following the calendar year during which the participant separates from service.

2. If a participant separates from service on or after the date on which he or she attains age 70½, the distribution of such participant's interest in the plan shall commence no later than 60 days following the close of the calendar year in which the participant separates from service.

3. If the participant is an independent contractor:

a. in no event shall distributions commence prior to the conclusion of the twelve-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire, and

b. in no event shall a distribution payable to such participant pursuant to Article IV. D commence if, prior to the conclusion of the twelve-month period, the participant performs services for the employer as an employee or independent contractor.

E. Unforeseeable Emergency. The emergency committee may authorize the withdrawal of all or a portion of a participant's interest in deferred compensation under the plan subject to the limitations set forth in Article VII.B, provided such participant establishes that he or she has experienced an unforeseeable emergency.

F. Leave of Absence. An approved leave of absence with pay shall not affect a participant's interest in deferred compensation under the plan. If a participant obtains an approved leave of absence without pay, he or she shall be treated as an inactive participant during the period of such leave. Upon returning to active status, the participant shall be entitled to execute a new deferral authorization.

G. Inactive participants. If a participant is treated as an inactive participant and his or her interest in deferred compensation under the plan is \$3500 or less, the commission, in its sole discretion, may, if permitted by the Code or Internal Revenue Service regulations elect to pay out such interest in a single-sum payment.

H. Definition. For the purposes of this Article, the term *inactive participant* means a participant who does not have a current deferral authorization and has not had compensation deferred under the plan in the last 60 days.

I. Retired Employees Return to Work. A former participant who is rehired after retirement may rejoin the plan as an active participant unless ineligible to participate under other plan provisions. If the rehired participant has commenced receiving distribution, the distribution may not be suspended during the period of re-employment, nor may the amounts received in the distribution be deferred again by reason of rejoining the plan.

J. Tax withholding and Reporting to Participants. Deferred compensation distributions retain their character as *wages* irrespective of the form or method in which the payments are made, and as such are subject to income tax withholding. The participant must complete and file with the commission a form W-4 authorizing the withholding of payroll tax. Each year the participant will receive a W-2, from the plan, reflecting the amount of distribution and taxes withheld.

Article V. Death Benefits

A. Designation of Beneficiary.

1. A participant shall initially designate his or her beneficiary on the deferral authorization provided by the commission. A participant may, at any time, modify his or her designation of beneficiary on forms acceptable to the commission; such modification shall become effective upon acceptance by the commission and shall constitute a revocation of all previous designations.

2. If no designated beneficiary survives the participant, the interest of the participant in deferred compensation under the plan shall be distributed to the legal representative of the participant's estate or to a successor in accordance with a judgment of possession.

B. Distributions Continuing After the Participant's Death

1. If a participant dies after distribution of his or her deferred compensation has begun, but prior to receiving his entire account balance, the remaining portion of such deferred compensation will continue to be distributed to his or her beneficiary or beneficiaries at least as rapidly as under the distribution method being used as of the participant's date of death.

2. A beneficiary shall be entitled to modify the participant's designation of the form of distribution during the period which commences as of the participant's death and ends at the close of the thirtieth day after the participant's death provided that the investment product allows these changes to be made. Any such modification shall be made, in writing, on forms acceptable to the commission and shall be filed with the commission during the period described above. The designation of the method of distribution shall become irrevocable at the close of the thirtieth day following the participant's death.

C. Distributions Commencing After the Participant's Death

1. If the participant dies before distribution of his or her

interest begins, distribution of the participant's deferred compensation shall be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death except to the extent an election is made to receive distributions in accordance with a. or b. below, which election is subject to the provisions of c. below:

a. If any portion of the participant's deferred compensation is payable to a designated beneficiary (an individual, not a trust, estate, or other entity), distributions may be made over the life or over a period certain not greater than the life expectancy of the designated beneficiary, with such distributions commencing on or before December 31 of the calendar year immediately following the calendar year in which the participant died; or

b. If the designated beneficiary is the participant's surviving spouse, the required commencement date shall begin no later than:

i. December 31 of the calendar year immediately following the calendar year in which the participant died, and

ii. December 31 of the calendar year in which the participant would have attained age 70½.

c. The entire amount subject to payments pursuant to a. or b. above must be paid during a period not to exceed 15 years or the life expectancy of the participant's surviving spouse if such spouse is the beneficiary.

2. If the participant has not made an election pursuant to this Section by the time of his or her death, the participant's designated beneficiary must elect a method of distribution no later than the earlier of:

a. December 31 of the calendar year in which distributions would be required to begin under this Section, or

b. December 31 of the calendar year which contains the fifth anniversary of the date of death of the participant.

3. If the participant has no designated beneficiary, or if the designated beneficiary does not elect a method of distribution, distribution of the participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

4. A beneficiary may modify the participant's designation of the form of distribution during the period which commences as of the participant's death provided that the investment product allows these changes to be made. Any such modification shall be made in writing, on forms acceptable to the commission and shall be filed with the commission during the period described above. The designation of the method of distribution shall become irrevocable at the close of the thirtieth day following the participant's death.

5. For the purposes of this Section, if the surviving spouse dies after the participant, but before payments to such spouse begin, the provisions of the Section, with the exception of Article V. C.1.b therein, shall be applied as if the surviving spouse were the participant.

6. A distribution pursuant to this Section payable over a period of more than one year can only be made in substantially non-increasing amounts (paid not less frequently than annually).

D. Amount of Distribution. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600.

Article VI. Funding

A. Fund. No fund or other account shall be established

to provide benefits under the terms of the plan. All deferred compensation, property and rights purchased with such deferred compensation, and income or earnings attributable to such deferred compensation, property or rights shall constitute assets of the State of Louisiana and remain (until made available to a participant or beneficiary) the property of the State of Louisiana, subject only to the claims of the general creditors of the State of Louisiana.

B. Investment Products. Notwithstanding any provision of the plan to the contrary, the State of Louisiana shall be the owner and sole beneficiary of any investment product obtained in connection with the plan.

Article VII. Administration

A. Powers. The commission shall have full power and authority to adopt rules or policies required to implement the plan and to interpret, amend or repeal any such rule or policy. In addition, the commission shall have full power and authority to administer the plan or to arrange for the administration of the plan through appropriate contracts or agents in accordance with applicable state law. The power and authority of such agents shall be limited to the powers enumerated in the contractual agreements between the commission and such agents.

B. Emergency Committee.

1. The commission shall appoint an emergency committee comprised of three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

2. A participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency.

3. If an application for a withdrawal based on unforeseeable emergency is approved, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

a. through reimbursement or compensation by insurance or otherwise;

b. by the liquidation of the participant's assets, provided the liquidation does not cause a financial hardship; or

c. by the revocation of the participant's deferral authorization.

C. Actions.

1. The commission shall act with reasonable prudence, due diligence, and care. All actions of the commission shall be made in a uniform and nondiscriminatory manner.

2. No member, if a participant of the commission or a committee, shall make any determination (other than a policy decision which affects all participants) similarly situated with respect to his or her specific interest in deferred compensation under the plan.

D. Liability. Neither the commission nor the employer guarantees compensation deferred pursuant to the plan from loss or depreciation in value. Neither the commission nor the employer shall be liable to anyone for any action or inaction taken in good faith in accordance with the terms of the plan or applicable law.

E. Cost of Administration. The commission may, in its sole discretion, use one or more of the following methods to meet the costs of administering the plan:

a. the commission may establish a reasonable monthly

or annual administrative charge;

b. the commission may deduct an allocable portion of administrative costs from deferred compensation;

c. the commission may deduct an allocable portion of administrative costs from the income or earnings of investment products;

d. the commission may authorize any duly-appointed administrator to accept commissions from providers of investment products, provided, however, that the amount of such commissions may not exceed the amount of similar commissions paid to unrelated third parties;

e. the commission may deduct administrative costs from funds on deposit in financial institutions; and/or

f. any other reasonable fee or commission required to defray the costs of administering the plan.

F. Investment Products

1. The commission, in its sole discretion, shall be entitled to select the various investment products available under the plan.

2. Notwithstanding any provision of the plan to the contrary, the commission, in its sole discretion, may direct the investment of all funds attributable to the plan. If practicable, however, investments shall be made in accordance with the deferral authorization executed by each participant. In the event funds are invested in an investment product designated by the participant or the commission and the commission elects to discontinue the availability of the investment product, the commission, in its sole discretion, shall be entitled to substitute a reasonable alternative.

G. Participant Statements. The commission shall provide each participant with a statement of the amount of his or her deferred compensation and the earnings or losses attributable to such amount. These statements will be done at least once each calendar year and be issued within a reasonable time. Such statements shall be for information purposes only and shall not represent a secured interest in any identifiable assets of the State of Louisiana.

H. Custodian. The commission or any duly-appointed agent shall be the custodian of all evidence of ownership in investment products acquired pursuant to the plan.

I. Form of Distribution. The commission, in its sole discretion, shall select the methods of distribution available under the plan. In the event a participant's deferral authorization (or other similar election form) provides for a method of distribution not available under the terms of the plan as of the earliest date on which distributions to such participant may commence, the commission, in its sole discretion, may substitute another method of distribution.

Article VIII. Miscellaneous

A. Employment Rights. Nothing contained in the plan shall be deemed to constitute an employment agreement or contract between a participant and the employer. Further, nothing contained in the plan shall be deemed to give a participant any right to be retained in the employ of the employer.

B. Non-assignability

1. Neither the deferral authorization executed pursuant to the terms of the plan nor the benefits, proceeds or payments attributable to such authorization can be sold, assigned, anticipated, pledged, commuted, transferred or otherwise conveyed by a participant or beneficiary. The commission shall not recognize any attempt to assign or transfer such amounts.

2. A participant's or beneficiary's interest in deferred compensation under the plan shall not be subject to attachment, garnishment, execution or transfer by operation of law in the event of the bankruptcy or insolvency of a participant or beneficiary.

C. Headings and Subheadings. The headings and subheadings are inserted for convenience only and are to be ignored in the construction and interpretation of the plan.

D. Severability. If a provision of the plan is deemed to be invalid or unenforceable, the remaining provisions shall continue in force and effect.

E. Days and Dates. Whenever time is expressed in terms of a number of days, the days shall be consecutive calendar days, including weekends and holidays, provided, however, that if the last day of a period occurs on a Saturday, Sunday or other holiday recognized by the employer, the last day of the period shall be deemed to be the following business day.

F. Conflicts. In the event any form or other document used in connection with the plan (including, but not limited to, deferral authorizations and investment products) conflicts with the terms of the plan, the terms of the plan shall govern.

G. Copy of Plan. A copy of the plan shall be made available to each participant or employee eligible to participate in the plan.

H. Amendment or Termination of Plan. The commission, in its discretion, shall have the authority to:

1. amend the plan,
2. terminate the plan, or
3. substitute a new plan for the plan.

Kenneth C. DeJean
Secretary

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

In accordance with the notice of intent published in the March, 1992 *Louisiana Register*, the Wildlife and Fisheries Commission, at its regular monthly meeting in July hereby ratifies regulations on open hunting season dates, bag limits, methods of taking, and rules and regulations on department operated wildlife management areas for the period September 1, 1992-August 31, 1993. Authority to establish regulations is vested in the commission by §115 of Title 56 of the Louisiana Revised Statutes of 1950. A synopsis of season dates is made part of this rule. A complete copy of the regulations may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804.

Summary of 1992-93 Resident Game Hunting Season Dates and Bag Limits

Quail: Nov. 26-Feb. 28 - Daily Bag Limit 10, Possession 20

Pheasant: Nov. 26-Dec. 6 (Cock Pheasant Only) - Daily Bag Limit 2, Possession 4

Squirrel: Oct. 3-Jan. 31 - Daily Bag Limit 8, Possession 16

Rabbit: Oct. 3-Feb. 28 - Daily Bag Limit 8, Possession 16

Deer: Dates Vary - See Schedule Below - Bag Limit:
One per day, 6 per season by all methods of taking.

Archery: Oct. 1-Jan. 20

Muzzleloader: Nov. 30-Dec. 4

Area 1 - 58 days	Days
Nov 21-Nov. 29	9 (still hunt only)
Nov. 30-Dec. 4	5 (still hunt, muzzleloader only)
Dec. 5-Dec. 31	27 (with or without dogs)
Jan. 1-17	17 (still hunt only)
	<u>58</u>

Area 2 - 68 days	Days
Oct. 31-Nov. 29	30 (still hunt only)
Nov. 30-Dec. 4	5 (still hunt, muzzleloader only)
Dec. 5-Dec. 11	7 (still hunt only)
Dec. 12-Jan. 6	26 (with or without dogs)
	<u>68</u>

Area 3 - 65 days	Days
Oct. 31-Nov. 29	30 (still hunt only)
Nov. 30-Dec. 4	5 (still hunt, muzzleloader only)
Dec. 5-Jan. 3	30 (still hunt only)
	<u>65</u>

Area 4 - 51 days	Days
Nov. 21-29	9 (still hunt only)
Nov 30-Dec. 4	5 (still hunt, muzzleloader only)
Dec. 5-Jan. 10	37 (still hunt only)
	<u>51</u>

Area 5 - 14 days	Days
Nov. 21-Nov. 29	9 (still hunt only)
Nov. 30-Dec. 4	5 (still hunt, muzzleloader only)
	<u>14</u>

Area 6 - 58 days	Days
Nov. 21-Nov. 29	9 (still hunt only)
Nov. 30-Dec. 4	5 (still hunt, muzzleloader only)
Dec. 5-Jan. 17	44 (with or without dogs)
	<u>58</u>

Turkey: Season Dates Vary - See Schedule Below -
Limit: One per day, three per season

Area A	Days
March 27-April 25	30

Area B	Days
March 20-April 25	37

Area D	Days
April 10-April 25	16

National Catahoula Wildlife Management Preserve
March 27-April 25

National Red Dirt Wildlife Management Preserve
March 27-April 25

AUTHORITY NOTE: Promulgated in accordance with
R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department
of Wildlife and Fisheries, Wildlife and Fisheries Commission
LR 18: (July 1992).

James H. Jenkins, Jr.
Chairman

Notices of Intent

NOTICE OF INTENT

Department of Civil Service

Pursuant to Civil Service Rule 2.10, notice is hereby given that the State Civil Service Commission, under authority conferred by Article X, Section 10(A)(1) of the Constitution of Louisiana, will resume its public hearing on the proposal described below on Wednesday, August 5, 1992, at 9 a.m. The hearing will be held in the Doubletree Hotel, 300 Canal Street, New Orleans, Louisiana, in Room Madewood A, which is located on the second floor. Consideration will be given to the following:

Proposed amendments to civil service rules 12.1-12.11; 1.19; 1.20; 1.36; 1.37; 1.38; 1.40; 2.9(b); 3.1(d); 6.5(c); 8.9(c); 8.15(d); 8.18 (d) and (e); 8.27(d)1. and 3.; 9.1(e); 9.2(c); 10.18; 10.21(b); 10.22(b); 11.10(a) and (d); 11.18; 11.27(e); 13.38(a); 15.9(c)5; 15.10 and 17.24.

Proposed adoption of civil service rules 1.5.2.01; 1.14.1.1 and 1.33.02.

Proposed repeal of civil service rules 3.1(i) and 15.9(c)6.

The proposed revisions to Chapters 12 and 1, as modified as a result of comments received prior to and during the public hearing held on July 8, 1992, are printed below. The remainder of the proposal contains technical amendments that are needed to implement the revisions to Chapter 12. Copies of the text of these technical amendments are available from the Department of State Civil Service Appeals Section which is located on the Second Floor South, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, Louisiana. The entire proposal can also be viewed in the Office of the State Register.

The proposal contains a complete revision to Chapter 12 of the Civil Service rules which governs adverse actions, investigations and resignations. The major substantive changes include:

1. allowing an appointing authority to ratify an action taken by another;
2. eliminating reprimands as appealable disciplinary actions;
3. limiting disciplinary suspensions to 30 days;
4. restricting verbal suspension to emergency situations;
5. authorizing suspensions pending criminal proceedings;
6. expanding the grounds for no-fault removals;
7. requiring pre-removal/pre-discipline procedures;
8. prohibiting placement of non-appealable papers in publicly accessible personnel records;
9. providing for suspension with pay pending investigation;
10. providing for adverse consequences to attach to only those resignations that are to avoid dismissal.

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

Herbert L. Sumrall
Director

NOTICE OF INTENT

Department of Culture, Recreation and Tourism Office of Cultural Development Division of the Arts

The Louisiana Division of the Arts, Office of Cultural Development, Department of Culture, Recreation and Tourism advertises its intent to amend and/or adopt the "Guide to Arts Programs" (Louisiana Administrative Code, Title 25, Chapter 3.), the division rule governing administration of arts grants.

A glossary is to be adopted. Amendments involve name changes for some programs, an expanded explanation of the Louisiana Crafts Program, and clarification of the requirement of a letter of intent to apply for first-time applicants and some applicants for Arts in Education residency grants. Local arts agency applicants must now submit a copy of the current Community Cultural Plan and address demographic information from the 1990 Census. Major arts institutions must provide a copy of their long-range plan as well as census data.

Interested parties may request a copy of the proposed rule from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804, and from the Division of the Arts at the address below.

Written comments on the proposed rule may be submitted until 4:30 p.m., August 10, 1992, to Emma Burnett, Director, Division of the Arts, Box 44247, Capitol Station, Baton Rouge, LA 70804; telephone: (504) 342-8180.

A public hearing will be held at 10 a.m., August 24, 1992, at the Division of the Arts, Room 420, 1051 North Third Street, Baton Rouge, Louisiana.

Emma Burnett
Director

Fiscal and Economic Impact Statement For Administrative Rules Rule Title: Guide to Arts Programs

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional cost 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.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no additional costs or economic benefits to directly affected persons or groups, other than applicants to the Arts Development Program.

Applicants to the Arts Development - Technical Assistance Program are eligible to request a higher level of funding.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Emma H. Burnett
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Branch Office Supervision

Notice is hereby given that the Louisiana Real Estate Commission intends to amend the following rules and regulations pertaining to branch office supervision.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part LXVII. Real Estate

Chapter 24. Branch Offices

§2403. Branch Office Supervision

Every branch office shall be under the direct supervision of a sponsoring, qualifying, or affiliated broker who shall be designated in writing as the branch office manager. A copy of the designation shall be submitted to the commission within five days following the date of the original designation or any changes thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1444.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:649, amended by the Department of Economic Development, Real Estate Commission, LR 18:

Interested parties may submit written comments until 4:30 pm., August 20, 1992, to Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Anna-Kathryn Williams
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Branch Office Supervision

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs to affected persons. Proposed language will allow sponsoring and/or qualifying brokers to manage their own branch offices which could, in effect,

eliminate the need to compensate an affiliated broker for same.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Anna-Kathryn Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Economic Development Real Estate Commission

Out-of-State Broker Cooperation

Notice is hereby given that the Real Estate Commission intends to adopt the following rules and regulations pertaining to out-of-state broker cooperation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXVII. Real Estate

Chapter 63. Out-of-State Broker Operation

§6301. Cooperative Agreements

A Louisiana broker may cooperate with a licensed broker of another state in the sale, lease, management or auction of real property located in Louisiana within the limits provided in the Louisiana Real Estate License law and rules and under the following conditions:

A. The sale, lease, management or auction shall be handled under the direct supervision and control of the Louisiana broker who shall take full responsibility for all actions of the nonresident broker. All advertising must contain the names of both the Louisiana licensed broker and the cooperating broker. The cooperating broker may place a sign on real property located in Louisiana with the written consent of the Louisiana licensed broker.

B. Any monies collected on behalf of others shall be maintained in the Louisiana broker's sales escrow, rental trust or security deposit trust account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

C. In each instance herein where a Louisiana broker enters into a cooperative agreement with an out-of-state broker for the sale, lease, management or auction of Louisiana real property, the Louisiana broker must file one copy of a cooperative agreement with the Louisiana Real Estate Commission prior to the property being advertised, shown, or any contract taken. A written cooperative agreement describing the property involved must be filed for each separate transaction. This agreement must contain verbiage wherein both the Louisiana broker and the out-of-state broker agree to comply with the Louisiana Real Estate License law and the rules and regulations of the commission.

D. The percentage of fees or commission to be received by the Louisiana broker and the out-of-state broker shall be negotiable between the two parties and shall be agreed upon, in writing, by the parties in their cooperative agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1446.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:

§6303. Referral Fees

A Louisiana broker may divide or share a real estate commission with a licensed broker in another state without filing a cooperative agreement whenever the licensed broker in the other state acts only as a referral agent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1446.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:

§6305. Non-License Activities

The commission shall have the power to impose any sanction permitted by this law on any licensee of this state who performs or attempts to perform any of the acts of a licensee on property located in another state without first having been properly licensed in that jurisdiction or without having fully complied with the laws of that state regarding real estate brokerage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435 and R.S. 37:1446.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 18:

Interested parties may submit written comments until 4:30 pm., August 20, 1992, to Stephanie C. Fagan, Office Coordinator, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898.

Anna-Kathryn Williams
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

Rule Title: Out-of-State Broker Cooperation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will have no fiscal impact on the agency. There are no estimated implementation costs or savings.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Conceivably, non-resident real estate licensees could forego the payment of Louisiana license fees through the cooperative agreement established in the proposed language; however, non-residents are not precluded from obtaining a Louisiana real estate license should they so desire. The possible loss of revenue associated with non-resident licensees will have no measurable impact on revenue collection in that non-residents represent only a minute portion of the total licenses issued.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Real estate licensees, resident and non-resident, may be affected by the proposed language. There are specific guidelines to which parties entering a cooperative agreement must adhere; however, there are no mandatory forms, fees, etc. Licensees may benefit by participating in certain types of real estate transactions from which they were previously precluded. Non-residents will no longer be required to hold Louisiana real estate licenses to participate in a single real estate transaction.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The repeal of the original rule in 1991 resulted in Louisiana licensees being precluded from certain real estate transactions within the state. Reinstatement of the original provisions will require out-of-state licensees to utilize the services of Louisiana licensees and to compensate them for same.

Anna-Kathryn Williams
Executive Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

Commission Meeting Schedule and Location Fee

The Used Motor Vehicle and Parts Commission, in accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, advertises its intent to adopt these proposed amendments, after determining, pursuant to R.S. 49:953(E), that this action will not result in any increase in the expenditure of state funds.

The amended rule changes the day and time of the commission meeting and adds a fee for change of location

Title 46

**PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part V. Automotive Industry**

**Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 27. The Used Motor Vehicle and Parts Commission**

§2701. Meetings of the Commission

A. The commission shall meet at its office in Baton Rouge, LA on the third Tuesday in each month to transact such business as may properly come before it. The regular meeting will convene at the hour of 1 p.m. and shall continue at the pleasure of those present. Any change of monthly meetings will be in accordance with the Open Meeting Law R.S. 42:5.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:72E.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended LR 15:258 (April 1989), amended LR 15:1058 (December 1989), amended LR 18:

Chapter 37. Changes to be Reported to Commission

§3701. Changes to be Reported to Commission and Fee Assessment

A. Any changes of address, ownership or employment by a dealer shall be reported to the commission within 10 days of the change. A picture of the new location must be sent with notification. A fee of \$100 will be charged each time a dealer changes his business location.

B.-E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:774 B(4)(g)

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR

11:1064 (November 1985) amended LR 18:

Interested persons may submit written comments concerning these proposed amendments to J. Eugene Smith, Executive Director, Louisiana Used Motor Vehicle and Parts Commission, 3132 Valley Creek Drive, Baton Rouge, LA, 70808.

Eugene Smith
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Title 46, Part V, Automotive Industry

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This commission will not experience any estimated implementation costs as this is merely an amendment to an existing rule. Currently the agency is absorbing the cost for changes of location.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues for this agency will increase by \$20,000. Approximately 200 dealers change locations during the license year. A charge of \$100 will be assessed each time a dealer changes location during the license year. 200 dealers at \$100 = \$20,000.

III. ESTIMATE COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Approximately 200 dealers would be affected as they will be assessed a charge of \$100 each time a change of location occurs. In the past and currently, this agency has absorbed the additional costs incurred when a change of location is processed. Due to the assessment of a \$100 charge, many dealers may refrain from changing locations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule pertaining to a \$100 charge for change of location may impact competition if a dealer is attempting to acquire a better location for his dealership.

J. Eugene Smith
Executive Director

John R. Rombach
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Board of Elementary and Secondary Education**

Bulletin 741 - Deletion of Computer Literacy Standard

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved an amendment to page 68 of Bulletin 741, to delete Standard 2.090.07 relative to Computer Literacy. Computer Literacy remains an option of the local education agency.

For clarification, Standard 2.090.07 of Bulletin 741 which has been deleted, read: "By completion of the eighth grade, students shall have received the equivalent of one semester of instruction in Computer Literacy."

This policy change was adopted as an emergency rule,

effective May 28, 1992.

Interested persons may comment on the proposed rule until 4:30 p.m., September 7, 1992 at the following address: Eileen Bickham, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Carole Wallin
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Computer Literacy (Elementary)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The total cost to the state will be approximately \$50 for the reprinting of Bulletin 741 and for dissemination.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no estimated effect on revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The deletion would affect elementary school students by removing the mandated coursework in Computer Literacy.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There should be no effect.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Board of Elementary and Secondary Education

Technical Institute Name Change - Margaret Surles Branch of Tallulah Technical Institute

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board changed the name of the Lake Providence Branch of Tallulah Technical Institute to the Margaret Surles Branch of Tallulah Technical Institute. This action, which is an amendment to the Louisiana Administrative Code, Title 28, was adopted as an emergency rule, effective July 1, 1992.

Interested persons may comment on the proposed rule until 4:30 p.m., September 7, 1992 at the following address: 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: Technical Institute Name Change**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This is changing the name of Lake Providence Techni-

cal Institute, Lake Providence Branch of Tallulah Technical Institute to Margaret Surles Branch of Tallulah Technical Institute. The cost of this change will be to notify all concerned; to have the branch sign changed and when ordering new stationery have the name changed. The cost will be approximately \$500.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as result of this action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no costs to persons or non-governmental groups for this action.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition as a result of this action.

John Guilbeau
Deputy Superintendent
Management and Finance

David W. Hood
Senior Fiscal analyst

NOTICE OF INTENT

**Department of Education
Board of Elementary and Secondary Education**

Revocation of Teaching Certificate for Felony Offense

In accordance with R.S. 49:950 et seq., The Administrative Procedure Act, notice is hereby given that the Board amended its policy on the revocation of teaching certificates to clarify that notices of Due Process hearings are to be mailed by the board office rather than by the Department of Education. Complete amended policy is stated below.

POLICY ON REVOCATION OF A TEACHING CERTIFICATE FOR A FELONY OFFENSE

I. A Louisiana teaching certificate may be denied or revoked if a certified court record indicates that the individual has received a final conviction by any state or federal court of a felony offense.

II. Upon receiving notice that a teacher has been convicted of a felony offense, defined by R.S. 14:2(4), as being any crime for which an offender may be sentenced to death or imprisonment at hard labor, the State Department of Education shall immediately suspend the teacher's certificate. The Department of Education shall promptly notify the Board in writing and notify the person whose certificate is so suspended by registered mail to his last known address or by any other means reasonably designed to inform the affected teacher of the suspension and his right to a hearing. Upon the order of the board, the board staff shall notify the teacher of the date, time, and place of the hearing, which shall be not less than 20 days nor more than 30 days from the date of the board's order for a hearing. The notice shall be sent by registered mail, return receipt requested, to the last known address of the teacher or by any other means reasonably designed to inform the affected teacher of the hearing. The notice shall include the specific charge, the witnesses to be

called by the department, the right of the teacher to present witnesses and documents in his defense, the right of the teacher to cross-examine any witnesses against him, and the right of the teacher to be represented by counsel of the teacher's choosing. The hearing shall be private unless the teacher elects to make it public. The purpose of the hearing shall be to determine if sufficient grounds exist to warrant the suspension or revocation of the certificate.

III. The Due Process or Appeals Committee shall make a recommendation to the full board regarding whether the teacher's certificate shall be revoked. The decision of the board shall be promptly transmitted to the teacher affected.

IV. The provisions of this Section shall apply only to teachers who are not under contract with a city or parish school board at the time of revocation.

V. A teacher whose certificate has been revoked under the provisions of this Part may apply for reinstatement only after three years, or later, from the effective date of the revocation of his or her certificate. The Due Process Committee of the board may conduct a hearing to determine if the former teacher has rehabilitated himself or herself sufficiently to warrant reinstatement of the teaching certificate.

Interested persons may comment on the proposed rule until 4:30 p.m., September 7, 1992 at the following address: 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: Revocation of Teaching Certificates

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The adoption of this amendment will cost the Department of Education approximately \$50 (printing and postage) to disseminate the amended policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy amendment will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

This action will result in no additional costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This action will have no effect on competition and employment.

John Guilbeau
Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Board of Elementary and Secondary Education**

Revised Tuition Exemption Guidelines

In accordance with the R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the board approved the revised Tuition Exemption Guidelines, effective for the Fall Semester, 1992.

These guidelines were also adopted as an emergency rule, the text of which is printed in full in this issue of the *Louisiana Register*.

Interested persons may comment on the proposed rule until 4:30 p.m., September 7, 1992 at the following address: 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: Tuition Exemption Guideline

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated implementation costs associated with the adoption of these rules. The Tuition Exemption Program has been awarded \$3,100,000 of 8(g) funds for fiscal year 1992-93.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that there will be a small increase in the number of teachers able to participate in the program, due to an increased funding level that should result in a small increase in payments to institutions of higher education.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Public and non-public, elementary and secondary classroom teachers are eligible for tuition waivers at participating Louisiana colleges and universities.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment.

John Guilbeau
Acting Deputy Superintendent

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Guarantee and Duration of Guarantee Commitment

The Louisiana Student Financial Assistance Commission advertises its intention to clarify its rules regarding the guarantee of student loans and the duration of the guarantee commitment. The Loan Program Policy and Procedure Man-

ual Section 6.1.8 B, C and D will be revised to read as follows:

B. LASFAC's guarantee commitment becomes effective on the date of the Letter of Guarantee created by LASFAC. A disbursement prior to the Letter of Guarantee date results in the lender's assumption of all risk for the disbursed proceeds.

C.7. The lender submitted a properly completed loan application to LASFAC or updated the computer loan record via IDEAL to show that both borrower and lender have signed and dated the application.

D. The guarantee commitment ceases if:

1. the lender disbursed the loan proceeds improperly; or
2. the lender failed to submit the guarantee fee within 60 days of the date of each disbursement; or
3. the loan is canceled by completion of a cancellation request; or
4. the loan is reported paid out on the lender manifest or status change report; or
5. the lender cannot produce the original notes or a true certified copy of the original; or
6. alteration of applications/promissory notes due to change of lender name are not done in accordance with procedure 6.2.3 A and the collectability of the note is damaged; or
7. the school period for which the loan was approved has ended and the completed application form has not been submitted to LASFAC prior to that date, or the confirmation of loan approval has not been transmitted via IDEAL.

* * *

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., September 20, 1991 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Guarantee and Duration of Guarantee Commitment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are associated with adoption of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections will result from adoption of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The effective dates and duration of the guarantee on student loans will be explained in greater detail for the benefit of lenders participating in our guaranteed student loan programs.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No effect on competition and employment is antici-

pated from the adoption of this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Louisiana Opportunity Loan Program Clarification of Full-Time Requirement

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Louisiana Opportunity Loan Program Lender Policy and Procedure Manual to clarify the requirement for full-time enrollment. LA-OP Program Procedure B 3 will be amended to read as follows:

3. maintain full-time enrollment at any state public two or four-year college or university or any institution that is a member of the Louisiana Association of Independent Colleges and Universities. If the student drops to less than full-time enrollment after the school has certified the student's eligibility but before disbursement of LA-OP loan proceeds, eligibility would be maintained if the student is still enrolled at least half-time. After disbursement of funds, students dropping to not less than half-time enrollment do not lose eligibility for the funds previously awarded; however, to receive additional disbursements, the student must be re-enrolled full time.

Interested persons may submit written comments on the proposed regulation until 4:30 p.m., September 20, 1992 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Louisiana Opportunity Loan Program Clarification of Full-Time Requirement

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs are associated with the implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No impact on revenue collections is anticipated from enactment of this proposed action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Current rules in accordance with Act 799 of 1991 require students to maintain full-time status in order to receive funds under the LA-OP Loan program. The proposal would allow students who temporarily drop below full-time to maintain eligibility.
- IV. ESTIMATED EFFECT ON COMPETITION AND EM-

PLOYMENT (Summary)

No impact on competition and employment is anticipated from implementation of the proposed rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

Tuition Assistance Plan Entitlement Reinstatement

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Scholarship/Grant Policy and Procedure Manual by deleting the last sentence of VI A and adding subparagraph C 3 h to read as follows:

Failure to maintain academic eligibility will result in permanent cancellation of the recipient's entitlement. A recipient denied continuation because of failure to show financial need may be reinstated, upon written request, if the individual has maintained the academic requirements for continuation and has re-established financial need.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., September 20, 1992 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Tuition Assistance Plan Entitlement
Reinstatement**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Of the 101 Tuition Assistance Plan recipients determined ineligible to continue receiving tuition waivers in 1990-91 solely because of income, the number who would not only re-establish financial need but also continue to meet academic requirements is expected to be small and to remain within budget.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated from the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Students who re-establish eligibility due to financial need will regain their eligibility to receive the tuition assistance if they have also maintained their academic eligibility for the plan.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

No impact on competition and employment is antici-

pated from adoption of this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Tuition Assistance Plan Recipients Restricted to - One
Tuition Waiver**

The Louisiana Student Financial Assistance Commission, Office of Student Financial Assistance, announces its intention to amend the Scholarship/Grant Policy and Procedure Manual by adding Subparagraph C 1 1 to Chapter VI, to read as follows:

* * *

A student may not receive TAP in conjunction with any other type of tuition waiver. OSFA should not be billed by and will not reimburse an institution for a TAP tuition waiver if the recipient has already been awarded a tuition waiver from another source such as vocational rehabilitation, LSU Board of Supervisors Scholarship, etc., unless the TAP recipient declines the original tuition waiver offer and accepts the TAP waiver.

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., September 20, 1992 at the following address: Jack L. Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Tuition Assistance Plan Recipients Restricted
to One Tuition Waiver**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No costs are associated with the formalization of the current policy regarding multiple tuition waivers.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No impact on revenue collections is anticipated from the implementation of this rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

More recipients will be served at the same cost to the provider of the funds by eliminating duplicate awards.

**IV. ESTIMATED EFFECT ON COMPETITION AND EM-
PLOYMENT (Summary)**

No impact on competition and employment is anticipated due to the implementation of this rule.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Employment and Training Office of Workers' Compensation Medical Fee Schedules

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 1988 Regular Louisiana Legislative Session and R.S. 23:1203, the Department of Employment and Training Office of Workers' Compensation, hereby gives notice of its intent to adopt and promulgate rules to implement the medical reimbursement schedules:

Title 40

LABOR AND EMPLOYMENT

Part I. Worker's 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, Reimbursement Schedule, 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 Instructions and Maintenance Procedures
- Chapter 39. Medical Transportation Reimbursement Schedule, Billing Instructions 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 Instructions 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

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 non-medical 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. A copy of the medical reimbursement schedules shall be available for view at the Office of Workers' Compensation Administration, 1001 North Twenty-third Street, Baton Rouge, LA 70804. Contact Judy Albarado at 504-342-7559 of the Medical Services Section to schedule appointments to review the medical reimbursement schedules.

Comments should be forwarded to Alvin Walsh, Director of Employment and Training, Officer of Worker's Compensation, Box 94040, Baton Rouge, LA 70804-9040. Written comments will be received through the close of business on August 7, 1992.

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 produce the medical reimbursement schedules with billing and maintenance procedures is \$41,539 as prepared by Blue Cross - Blue Shield of Louisiana. The cost to the Office of Workers' Compensation to reproduce one copy of the reimbursement schedules is \$20.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This will have no effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The medical reimbursement schedules with billing and maintenance instructions will provide guidelines and procedures for appropriate reimbursement amounts to the various health care providers for a proposed or already performed service provided to a person receiving benefits legally due because of a job related injury or illness. The precise economic benefit is not ascertainable. It is estimated that there could be approximately a 15 percent to 25 percent reduction in total medical payments in workers' compensation cases. Employers through their insurance carriers could 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 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 Environmental Quality Office of Air Quality and Radiation Protection

Standards for Performance for Biomedical Waste Incinerators

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.5191, (Log AQ64).

This proposed rule sets the standards for operation of biomedical waste incinerators. The standards include operating parameters and the recording of operational data to verify compliance with the standards.

These proposed regulations are to become effective on October 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on August 24, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 25, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log AQ64. Check or money order is required in advance for each copy of AQ64. This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70804 and at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Standards of Performance for Biomedical Waste
Incinerators (LAC 33:III.Chapter 51)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Additional cost to state government is estimated at \$11,648 to cover registration of facilities and biennial

enforcement inspection. No additional cost is expected for local government units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Additional state revenue of \$11,648 is anticipated from the registration and annual maintenance fees which will be charged to all biomedical waste incinerators. No additional revenue is anticipated for local government units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Each biomedical incinerator unit under 1,000 pounds per hour owner or operator will be charged \$104 (1/5th of the annual permitting) for an annual maintenance fee. Incinerators larger than 1,000 pounds per hour will be charged \$320 per year. Total costs to upgrade the incinerators and to comply with the proposed rule will be \$5,250,000.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is an anticipated effect to competition or employment. The incinerator operators which do not upgrade their incinerators will have to process their biomedical waste through alternate facilities. Fewer than 20 facilities are expected not to upgrade their incinerators.

Gus VonBodungen
Assistant Secretary

David W. Hood
Senior Fiscal Officer

NOTICE OF INTENT

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

Emission Standards for Asbestos (AQ58)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.5151, (Log AQ58).

This proposed rule will repeal LAC 33:III.Chapter 51.Subchapter M, and repromulgate it to be consistent with the U. S. EPA standard, 40 CFR Part 61 Subpart M, The National Emission Standards for Hazardous Air Pollutants (NESHAPS); Final Rule of November 20, 1990. These standards control fugitive asbestos fibers during renovation and/or demolition activities. In addition, these standards will include removal, tracking, reporting and recordkeeping, and disposal standards for asbestos containing material.

These proposed regulations are to become effective on October 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on August 24, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 25, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA 70884-2282 or to 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810. Commentors should reference this proposed regulation by log #AQ58.

A copy of this proposed regulation may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA 70802 or may be inspected at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, 4th Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: LAC 33:III.5151 Emission Standards for
Asbestos**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No additional cost, or savings, to state or local government units are expected.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is an approximate \$10,000 increase in revenue collections for state government but little or none for local governmental units from the promulgation of the proposed rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS ON NON-GOVERNMENTAL
GROUPS (Summary)**

There is an anticipated annualized fee of \$200 for persons that perform air monitoring. This additional cost will likely be passed on to entities being serviced by this discipline.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

No significant effect on competition and employment. This proposed rule will be consistent with the Federal rule.

Gus Von Bodungen
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Storage of Volatile Organic Compounds (AQ65) (LAC
33:III.2103 et seq)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., particularly R.S. 30:2054, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Regulations, LAC 33:III.2103, 2109, 2115, 2123, 2125, 2131, 2135 and 2143, (Log AQ65).

This proposed rule will add Livingston Parish to LAC 33:III.Chapter 21 so that it will be incorporated into the Baton Rouge Ozone Non-Attainment Area.

These proposed regulations are to become effective on October 20, 1992, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on August 24, 1992, at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons are invited to attend and submit oral comments on the proposed amendments.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 25, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Commentors should reference this proposed regulation by the Log AQ65. Check or money order is required in advance for each copy of AQ65. This proposed regulation is available for inspection at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA and at the Department of Environmental Quality at the following locations from 8 a.m. until 4:30 p.m.

Department of Environmental Quality, 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810;

Department of Environmental Quality, 804 31st Street, Monroe, LA 71203;

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101;

Department of Environmental Quality, 1150 Ryan Street, Lake Charles, LA 70601;

Department of Environmental Quality, 3945 North I-10 Service Road West, Metairie, LA 70002;

Department of Environmental Quality, 100 Asma Boulevard, Suite 151, Lafayette, LA 70508.

James B. Thompson, III
Assistant Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Storage of Volatile Organic Compounds**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no costs or savings expected from this proposal.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact is expected on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS ON NON-GOVERNMENTAL GROUPS (Summary)

Retrofitting of gasoline dispensing facilities in Livingston Parish will require a capital expenditure of approximately \$374,000 (81 facilities) at an estimated cost of \$4,620 each.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Gus VonBodungen
Assistant Secretary

David W. Hood
Senior Fiscal Officer

NOTICE OF INTENT

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

Neonatal Screening

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Neonatal Screening Law, R.S. 40:1299 et seq., the Genetics Program of the Office of Public Health proposes to amend the following rules and regulations.

Title 48

PUBLIC HEALTH - GENERAL

Part V. Public Health Services

Subpart 19. Genetic Diseases Service

Chapter 63. Neonatal Screening

§6303. Purpose, Scope, Methodology

A. Purpose and Scope

R.S. 40:1299 et seq. requires physicians to test Louisiana neonates for phenylketonuria, congenital hypothyroidism and sickle cell disease. OPH maintains a laboratory for screening tests for hyperphenylalaninemia manifest in phenylketonuria (PXU), for Thyroxine (T₄) and thyroid stimulating hormone (TSH) used in congenital hypothyroidism detection, and hemoglobin electrophoresis for sickle cell disease. Definitive diagnostic tests are provided if the screening test is positive. Act No. 0729, 1991 added screening for galactosemia, but this test cannot yet be offered by the Office of Public Health.

B. Methodology

1. Filter Paper Specimen Form (Lab-10). The filter paper form used in blood specimen collection for neonatal screening, the Lab-10 form, can be obtained at OPH parish health units. There are two different types of Lab-10 forms which are color coded.

a. For patients covered by Medicaid, including those in the Kid-Med Program, blue border Lab-10 forms are used. There is no charge to private providers for these blue border forms. The patient's Medicaid number (or mother's number, if the patient has not been issued one) must be indicated on the form.

b. For private and non-Medicaid patients, red border Lab-10 forms are used. These red border Lab-10 forms are \$12 each.

2. Private providers should order a mix of red and blue Lab-10 forms from their local parish health unit (or OPH Regional Office for certain areas) to match the Medicaid/non-Medicaid composition of newborns to be screened at their facility. The Lab-10 forms must be completely filled out.

C. Policy for Predischarge and Repeat Screening

1. All hospitals that have maternity units shall institute and maintain a policy of screening all neonates before discharge regardless of their length of stay in the hospital. Newborns remaining in the hospital for an extended period should be screened initially no later than seven days after birth. Neonatal screening results on specimens collected from babies younger than 48 hours of age may not be valid because of a large percentage of false negative results particularly at 24 hours or less (16 percent)¹. These newborns must be re-screened at the first medical visit, preferably between one and two weeks of age, but no later than the third week of life. Selection of 48 hours, though somewhat inconsistent with the American Academy of Pediatrics (AAP) Guidelines for Perinatal Care, 2nd Edition, was recommended by our Genetics Advisory Committee and the pediatric endocrinology consultants.

2. The repeat screening of a newborn who was initially screened before 48 hours is the responsibility of the submitter. This responsibility may be delegated to the primary pediatrician, as long as they are notified of the results by the initial submitter in a timely manner. To assure that neonates who need re-screening (due to unsatisfactory specimens or age at collection) actually receive the repeat test, hospitals with maternity units must establish a system for prompt forwarding of result data to the physician of the newborn.

D. Notification of Screening Results

1. Providers are notified immediately of positive screens by telephone. Otherwise, submitters should receive the result slip from the State Central Lab within two to three weeks. Submitters can speed up the turn-around time by using overnight mail. Submitters may call the Central Lab for results 10 days after submission. The telephone number for the central Lab is (504) 568-8990.

E. Unsatisfactory Specimens

The accuracy of a test depends on proper collection of the blood spot. Specimens of unsatisfactory quality for testing will be indicated on the result slip. Submitters must make arrangements for re-screening immediately. Training on collecting adequate specimens can be arranged by calling the Genetics Nurse Consultant at (504) 568-5070.

F. Medical/Nutritional Management

1. For a patient with PKU or other rare inborn errors of metabolism to receive the special formulas for the treatment of these disorders from the Genetics Program, the following must be provided:

a. receive a medical evaluation at least once annually

- at Tulane Human Genetics Program Clinic;
- b. submit blood samples as requested by the medical specialist under contract with the program;
 - c. include dietary records with the submission of each blood specimen;
 - d. sign and submit all insurance forms relative to charges for special formula;
 - e. inform the program office immediately of any changes in insurance coverage;
 - f. if a patient fails to comply with these requirements, he/she will not be able to receive formula.

Reference¹

American Academy of Pediatrics, Committee on Genetics: New Issues in Newborn Screening for Phenylketonuria and Congenital Hypothyroidism. *Pediatrics* 1982; 60:104-6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299, et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Preventive and Public Health Services, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of Public Health, LR 17:378 (April 1991), LR 18:

Interested persons may submit written comments on the proposed changes by August 20, 1992 to Charles Myers, Administrator of the Genetics Program, Room 611, Box 60630, New Orleans, LA 70160.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Neonatal Screening**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no additional costs associated with the promulgation of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no changes in revenue collection associated with this rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no economic benefits to affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment.

Larry J. Hebert, M.D.
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

FQHC Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

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

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

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

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

Interested persons may submit written comments to the following address: John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed rule.

A public hearing on this proposed rule will be held on Tuesday, August 25, 1992 in the Department of Transportation and Development auditorium, 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 said hearing.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: FQHC Reimbursement

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

Cost to the state for reimbursement of services provided by Federally Qualified Health Centers is estimated to be \$825,091 for FY 92/93, \$893,279 for FY 93/94, and \$951,342 for FY 94/95.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Federal share of costs associated with adoption of this provision is estimated to be \$2,365,421 for FY 92/93, \$2,504,510 for FY 93/94, and \$2,667,303 for FY 94/95.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No revenue impact to the facilities is expected to result from adoption of this rule. Costs of providing services prior to implementation of the proposed rule have been reimbursed through other funding sources. Many services provided to Medicaid patients prior to adoption of the rule were funded through Medicaid payments as other types of provider (i.e., physician group).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Removal of Free-standing
Psychiatric Facilities**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in the Medical Assistance Program.

While the department has restricted the enrollment of free-standing psychiatric beds in the Title XIX Program, the expansion of acute care hospital distinct-part psychiatric beds has continued. The result of the control of one type psychiatric bed without control of the other has been the expansion of the uncontrolled type. To establish control would require regulation of all acute care hospital beds. However, based on the current inventory of unused beds, adoption of restrictions on future expansion would also be ineffective in regulating psychiatric bed enrollment. Based on the experience of the department, current restrictions on the number of freestanding psychiatric beds approved for Title XIX reimbursement are being revoked.

PROPOSED RULE

The Department of Health and Hospitals, Bureau of Health Services Financing, will no longer regulate the number of free-standing psychiatric beds approved for Title XIX reimbursement. Therefore the policies and procedures for Facility Need Review are being revised to remove all reference to free-standing psychiatric beds under scope of coverage of the Facility Need Review Process.

Interested persons may submit written comments to the following address: John Futrell, 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 on this proposed rule will be held on Tuesday, August 25, 1992 in Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

J. Christopher Pilley
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

**Rule Title: Removal of Free-standing
Psychiatric Facilities**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

No implementation costs or savings are anticipated from this rule revision. It is anticipated that the net growth of psychiatric beds eligible for Title XIX reimbursement will continue at current rates. Although this proposed rule removes restrictions on increases in free-standing psychiatric beds, an offsetting decrease in acute care hospital distinct-part psychiatric bed growth is projected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections is anticipated as a result of this rule revision.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

No costs or economic benefits are anticipated as a result of this rule revision.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

**Reimbursement for Inpatient Hospital
Services to Infants Under One Year**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposed to adopt the following rule in the Medical Assistance Program.

Section 4604 of the Omnibus Reconciliation Act of 1990 (P. L. 101-508) mandates that effective for services on or after July 1, 1991, costs related to inpatient services to infants under one year of age (or through discharge if an inpatient on their first birthday) be handled as a pass-through cost and be reimbursed without any cost limits. Medicaid is therefore proposing to reimburse for nursery and neonatal and other inpatient services to infants under one year of age, 100 percent of reasonable costs as defined by Medicare principles of reimbursement and methods of cost apportionment. This proposed change in reimbursement is projected to result in increased reimbursement for nursery inpatient services to Medicaid recipients of \$5,485,980 and for neonatal intensive care unit inpatient services of \$2,992,636. Currently the state reimburses hospitals on costs subject to certain limitations. Supplemental costs report forms to pass-through such costs shall be required and shall be subject to audit. It will be necessary for hospitals providing inpatient services to infants under one year of age to maintain sufficient documentation to track such services and costs.

An emergency rule regarding implementation of OBRA-90 provisions related to Medicaid was previously implemented effective January 2, 1991 and published in the *Louisiana Register* (Vol. 17, Number 1, page 27) on January 20, 1991 and was effective for the maximum period allowed under R.S. 49:954(B) et seq. An emergency rule detailing this proposed change was also published in the June 20, 1992 *Louisiana Register*.

Effective for services provided on or after July 1, 1991, the Bureau of Health Services Financing shall revise Medicaid reimbursement for inpatient hospital services to provide for carve-out of inpatient services to infants under one year of age (or through discharge if an inpatient on their first birthday). Reasonable costs in accordance with Medicare (Title XVIII) principles of reimbursement and methods of cost apportionment, which are related to inpatient hospital services to infants under one year of age, shall be reimbursed as pass-through costs and shall not be subject to per discharge or per diem limits applied to other inpatient hospital services.

Interested persons may submit written comments to the following address: John L. Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is the person responsible for responding to inquires regarding this proposed change. A copy of this emergency rule is available for review in each local Office of Family Support.

A public hearing on this proposed change will held on Tuesday, August 25, 1992, in the Department of Transportation and Development Auditorium, 1201 Capitol Access Road, Baton Rouge, LA at 9:30 am. All interested

persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing.

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

J. Christopher Pilley
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Reimbursement of Inpatient Hospital Services to Infants Under One Year

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule would result in increased expenditures to hospitals providing inpatient services to infants under one year of age. It is projected for SFY 91-92 that an additional \$8,478,616 for nursery and neonatal intensive care costs in excess of current limits would now be reimbursed and in SFY 92-93 an additional \$8,877,111 would be reimbursed for services to infants under one year of age, while SFY 93-94 additional reimbursement for these services is estimated to be \$9,294,335 as a result of implementation of this federal law. Only hospitals whose costs are in excess of such cost limits will receive additional reimbursement. Hospitals with costs currently under such cost limits will receive no additional reimbursement as they are not impacted by this change.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule increases federal match funds for Title XIX vendor payment expenditures by \$6,286,046 in SFY 91-92; \$6,543,318 in SFY 92-93; and \$6,850,854 in SFY 93-94 for nursery and neonatal intensive care inpatient services currently impacted by cost limits.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Infants under one year of age who are Medicaid recipients will be assured of access to services as hospitals will be reimbursed their costs for inpatient services provided to infants. Facilities providing inpatient services to infants under one year of age would be reimbursed reasonable costs related to the care of such individuals and would not be impacted by current cost limits. An additional reimbursement of \$8,478,616 in SFY 91-92; \$8,877,111 in SFY 92-93; and \$9,294,335 in SFY 93-94 is estimated to be paid to Medicaid enrolled hospitals for inpatient services to infants under one year of age.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposed rule will have no known impact on competition or employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Food Stamp Fraud and Recovery

The Department of Social Services, Office of Family Support, proposes to amend LAC 67:III.19105. This proposed rule is mandated by Public Law 101-624 §1746, Public Law 102-237 §911, and Public Law 97-253, Title I, Subtitle E, §177.

Title 67

DEPARTMENT OF SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overpayments and

Disqualification Penalties

§19105. Recovery of Overpayments and Disqualification

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 10 days to choose between cash repayment or a reduced allotment before the agency takes action to reduce the household's allotment. Third, the agency will not retain any portion of recovered overissuances which resulted from agency error.

* * *

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, 273.16, 276 and 277.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:

Interested persons may submit written comments to the following address: Howard L. Prejean, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA 70804-4065. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held August 24, 1992, in the Second Floor Auditorium, 755 Third Street, 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 said hearing.

Gloria Bryant-Banks
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules**

Rule Title: Recovery of Overpayments and Disqualification Penalties in Food Stamp Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated implementation costs to state government associated with this rule will be the cost of printing 10 pages of forms instructions in Chapter 16, the Fraud and Recovery Manual, to incorporate the change. The projected estimated cost of the printing is \$60.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will have no effect on revenue collection.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no costs or economic benefits associated with this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect projected on competition or employment.

Howard L. Prejean
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary**

The Department of Social Services, Office of the Secretary proposes to adopt the following rule in the Child Care Assistance Program effective October 20, 1992.

Title 67

SOCIAL SERVICES

Part I: Office of the Secretary

Chapter 1. Child Care Assistance Program

§101. Child Care and Development Block Grant Program — Eligibility Requirements

1. Household income does not exceed 75 percent of the state median income for a household of the same size;
a. Income is defined as gross earnings from all sources of employment. Earnings must be verified, using a minimum of three check stubs from the most recent three pay periods, or a written statement from the employer;

b. Medical expenses are deducted from the household's total earned income to determine income eligibility if they are:

- i. verified by the applicant;
- ii. regular and incurred at least once each month;
- iii. non-reimbursable by insurance or other sources;
- iv. not covered by Medicaid;
- v. \$35 or more each month.

Verification can consist of receipts from a drugstore or a doctor's office, etc., but must be sufficient to satisfy the criteria listed above. Deductions shown on check stubs for hospitalization, dental insurance, or Medicare premiums are to be deducted as medical expenses;

c. a household is defined as a group of persons who share income and living expenses, with one or more adults acting as parents to the dependent children. The household must reside in Louisiana to be eligible for Child Care Assis-

ance. Homelessness does not preclude being considered a "household";

2. the family includes a child currently in need of care who is under age 13, or age 13 to age 18 and physically or mentally incapable of caring for himself or herself, as verified by a physician or certified psychologist, or under court supervision. If the child is not already placed with a child care provider, current need is defined as child care that is scheduled to begin within:

a. three weeks of the application date, or

b. two weeks of receipt of the Child Care Certificate in the regional office.

3. the child resides full-time with a parent(s) or guardian(s) who is applying for child care services;

4. the parent(s) or guardian(s), regardless of age, as well as all household members 18 years of age and older, is:

a. employed at least 20 hours per week and earning gross wages equivalent to the federal minimum wage multiplied times 20 hours per week, or

b. attending a job training or educational program at least 20 hours per week, or

c. some combination of employment and training that equals at least 20 hours per week.

Attendance at a job training or educational program must be verified, including the date of completion. Protective services status must be verified by the Office of Community Services. The parent(s) or guardian(s), and all adult members of the household of a child in need of or receiving protective services are not required to be employed or attending a job training or educational program;

5. the child for whom application is being made is not eligible for or receiving child care benefits through the Aid to Families with Dependent Children (AFDC) program (includes AFDC Child Care Assistance, Project Independence child care, Transitional Child Care, etc.).

6. the family requests child care services, provides the information necessary for determining eligibility and fees, and meets appropriate application requirements established by the state.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, 45 CFR Part 99, 45 CFR Part 255 and 45 CFR Part 257.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, LR 18:288 (March 1992), amended LR 18:

Interested persons may submit written comments by August 24, 1992 to the following address: William Ludwig, Deputy Secretary, Department of Social Services, Box 3776, Baton Rouge, LA 70821. He is the person responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on August 24, 1992 in the Second Floor Auditorium, 755 Riverside, Baton Rouge, LA beginning at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at said hearing.

Gloria Bryant-Banks
Secretary

Fiscal and Economic Impact Statement For Administrative Rules

Rule Title: Child Care Assistance Program, LAC 67.I.101

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This rule will result in no change in expenditures for child care services; instead, it will change the eligible population receiving benefits through the Child Care Assistance Program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no change in the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Low income families in need of assistance in paying for child care in order to work or attend training or educational programs will be affected by this change in the Child Care Assistance program. The total funds allocated to Louisiana by the federal government through the Child Care and Development Block Grant will not be changed; however, there may be changes in the universe of persons eligible for program benefits as a result of these changes in eligibility requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition and employment.

William Ludwig
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Transportation and Development

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to adopt the following rule entitled Installation of Specific Services (LOGO) Signing, in accordance with the provisions of R.S. 30:2415.

Title 70

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

Part III. Office of Highways

Chapter 3. Installation of Specific Services (LOGO) Signing

§301. Purpose

A. The purpose of this directive is to establish policies for the installation of motorist services signs within state highway rights-of-way.

B. - I. Repealed

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

§303. Definitions

A. Except as defined in this Subsection, the terms

used in this directive shall be defined in accordance with the definitions and usage of the Louisiana Manual on Uniform Traffic Control Devices (MUTCD).

1. *Business Sign*—a separately attached sign mounted on the rectangular sign panel to show the brand, symbol, trademark, or name, or combination of these, for a motorist service available on or near a crossroad or frontage road at or near an interchange.

2. *Specific Information Sign*—a rectangular sign panel with:

a. the words, "GAS", "FOOD", "LODGING", or "CAMPING";

b. directional information; and

c. one or more business signs.

3. *Department*—the Louisiana Department of Transportation and Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

§305. Location

A. *Eligible Highways*. Business signs will be allowed only on interstates and other fully controlled access facilities.

B. *Intended for Rural Areas*. Specific information signs are intended for use primarily in rural areas. Motorist information signs may be installed within urban areas where the roadside development does not appear to be urban.

C. *Lateral Location*. The specific information signs should be located so as to take advantage of natural terrain, to have the least impact on the scenic environment, and to avoid visual conflict with other signs within the highway right-of-way. Sign panel supports shall be of a breakaway or yielding design.

D. *Relative Location*. In the direction of traffic, successive specific information signs shall be those for "CAMPING", "LODGING", "FOOD", and "GAS" in that order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

§307. Criteria for Specific Information Permitted

A. *Conformity with Laws*. Each business identified on a specific information sign shall have given written assurance to the department of its conformity with all applicable laws concerning the provision of public accommodations without regard to race, religion, color, sex, age, or national origin, and shall not be in breach of that assurance.

B. *Distance to Services*. The maximum distance that service facilities can be located from the terminal of the nearest off ramp to qualify for a business sign shall be 10 miles in either direction. Measurements shall be made from the beginning of the curves connecting the ramp to the crossroad or the nosepoint of a loop along normal edge of pavement of the crossroad as a vehicle must travel to reach a point opposite the main entrance to the business. See Figures 1 through 5 for graphic representation.

C. *Types of Services Permitted*. The types of services permitted shall be limited to "GAS", "FOOD", "LODGING", and "CAMPING". To qualify for display on a specific information sign the following criteria must be met.

1. Gas:

a. appropriate licensing as required by law;

b. vehicle services of fuel (unleaded or unleaded and

diesel), oil and water for batteries and/or radiators;

c. clean modern restroom facilities for each sex and drinking water suitable for public use;

d. year-round operation at least 16 continuous hours per day, seven days a week;

e. telephone available for use by the public;

f. an on-premise attendant to collect monies, and/or make change.

2. Food:

a. appropriate licensing and/or permitting as required by law or regulation;

b. year-round operation at least 12 continuous hours per day;

c. indoor seating for at least 16 persons;

d. clean modern restroom facilities for each sex;

e. telephone available for use by the public.

3. Lodging:

a. appropriate licensing as required by law;

b. adequate sleeping accommodations consisting of adequate a minimum of 20 units with private baths;

c. off-street vehicle parking spaces for each lodging room for rent;

d. year-round operation;

e. telephone available for use by the public.

4. Camping:

a. appropriate licensing as required by law;

b. modern sanitary and bath facilities (for each sex)

which are adequate for the number of campers that can be accommodated;

c. at least 10 campsites with water and electrical outlets for all types of travel-trailers and camping vehicles;

d. tent camping area;

e. adequate parking accommodations;

f. continuous operation, seven days a week, 12 months a year;

g. telephone available for use by the public.

D. *Number of Signs Permitted*. The number of specific information signs permitted shall be limited to one for each type of service along an approach to an interchange or intersection. The number of business signs permitted on a sign panel is specified in Subsection 309.D, E, and F.

E. *Specific information signs with directional and distance information* shall be erected along the ramp approaching the crossroad when the business (es) are not visible from those approaches.

F. *Trailblazing needs* will be determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

§309. Composition

A. *Sign Panels*. The sign panels shall be a blue background with a white reflectorized border. The size of the sign panel shall not exceed the minimum size necessary to accommodate the maximum number of business signs permitted using the required legend height and the interline and edge spacing specified in the MUTCD.

B. *Business Signs*. Business signs should have a blue background with a white legend and border. The principal legend should be at least equal in height to the directional legend on the sign panel. Where business identification symbols or trademarks, are used alone for a business sign, the

border may be omitted, the symbol or trademark shall be reproduced in the colors and general shape consistent with customary use, and any integral legend shall be in proportionate size. Symbols and trademarks which resemble any official traffic control device are prohibited. Business signs shall contain only the name and/or the trademark of the business. No products, goods or services or accessory activities shall be displayed. Also, no descriptive advertising words, phrases or slogans shall be allowed. The vertical and horizontal spacing between business signs on sign panels shall not exceed eight inches and 12 inches, respectively.

C. Legends. All directional arrows and all letters and numbers used in the name of the type of service and the directional legend shall be white and reflectorized.

D. Single-Exit Interchanges. The name of the type of service followed by the exit number shall be displayed in one line above the business signs. At unnumbered interchanges, the directional legend next right (left) shall be substituted for the exit number. All specific information signs ("GAS", "FOOD", "LODGING", and "CAMPING") shall be limited to six business signs.

E. Double-Exit Interchanges. The specific information signs shall consist of two sections, one for each exit. The top section shall display the business signs for the first exit and the lower section shall display the business signs for the second exit. The name of the type of service followed by the exit number shall be displayed in a line above the business signs in each section. At unnumbered interchanges, the legends next right (left) and second right (left) shall be substituted for the exit numbers. Where a type of motorist service is to be signed for at only one exit, one section of the specific information sign may be omitted, or a single-exit interchange sign may be used. The number of business signs on the sign panel (total of both sections) shall be limited to six.

F. Remote Rural Interchanges. In remote rural areas, where not more than two qualified facilities are available for each of two or more types of services, business signs for two types of services may be displayed on the same sign panel. Not more than two business signs for each type of service shall be displayed in combination on a panel. The name of each type of service shall be displayed above its respective business sign(s), and the exit number shall be displayed above the names of the types of services. At unnumbered interchanges, the legend next right (left) shall be substituted for the exit number. Business signs should not be combined on a panel when it is anticipated that additional service facilities will become available in the near future. When it becomes necessary to display a third business sign for a type of service displayed in combination, the business signs involved shall then be displayed in compliance with Subsection 309.D and E.

G. Size

1. Specific Information Signs. The maximum size of the "GAS" specific information sign shall be 15 feet wide and 10 feet high.

2. Business Signs

a. Each business sign displayed on the "GAS" specific information sign shall be contained within a 48-inch wide and 36-inch high rectangular background area, including border.

b. Each business sign on the "FOOD", "LODGING", and "CAMPING" specific information signs shall be contained within a 60-inches wide and 36-inches high or 48-

inches wide and 36-inches high rectangular background area, including border. Size will be determined by the department.

3. Legend. All letters used in the name of the type of service and the directional legend shall be 10-inch capital letters. Numbers shall be 10-inches in height.

4. Ramp Signs

a. Each business sign displayed on the ramp specific information sign shall be 24-inches wide and 18-inches high for "GAS" and 30-inches wide and 18-inches high or 24-inches wide and 18-inches high for "FOOD", "LODGING", and "CAMPING". Sizes will be determined by the department.

b. The legend on the ramp business sign shall be the same as on the mainline sign only proportionately smaller.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

§311. Special Requirements

A. Business sign applications will be accepted on a "first-come" basis. Businesses must meet the distance requirements from each approach independently in order to be signed on each approach. All distance criteria are to be determined in accordance with provisions stated in §305.

B. The motorist information signs shall be fabricated and installed by the department. All business signs will be furnished by the businesses at no cost to the department and shall be manufactured in accordance with the department's standard or special specifications and/or supplements thereto, for both materials and workmanship.

C. No business will be eligible to participate in the motorist information sign program while advertising on an illegal outdoor advertising sign.

D. When one or more businesses located at an interchange meeting the requirements of §305 agree to participate in the logo signing program, the general motorist service sign shall be removed. The general services not included in the logo signing program but available at the interchange shall be signed for using an independently mounted symbolic service sign.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

§313. Fees and Agreements

A. The annual fee and service charges for each business sign shall be established by the department as stipulated on the permit application.

1. The annual renewal date shall be January 1. Business will be invoiced for renewal, 30 days prior to the renewal date. The fee shall be remitted by check or money order payable to the Louisiana Department of Transportation and Development. Failure of a business to submit the renewal fee(s) by the annual renewal date shall be cause for removal and disposal (as set forth in §313) of the business sign by the department. The initial fee shall be prorated by the department to the annual renewal date to cover the period beginning with the month following the installation of the logo signs.

2. When requested by a business, the department, at its convenience may perform additional requested services in connection with changes of the business sign, with a serv-

ice charge per business sign, and any new or renovated business sign required for such purpose shall be provided by the applicant.

3. The department shall not be responsible for damages to business signs caused by acts of vandalism, accidents, natural causes (including natural deterioration), etc. requiring repair or replacement. Applicant in such events shall provide a new or renovated business sign together with payment of a service charge fee per sign to the department to replace such damaged business sign(s).

4. Individual businesses requesting placement of business signs on motorists information signs shall submit to the department a completed application form provided by the department.

5. Businesses must submit a layout of professional quality or other satisfactory evidence indicating design of their proposed business sign for approval by the department before the sign is fabricated.

6. No business sign shall be displayed which, in the opinion of the department, does not conform to department's standards, is unsightly, badly faded, or in a substantial state of dilapidation. The department shall remove, replace, or mask any such business signs as appropriate. Ordinary initial installation and maintenance services shall be performed by the department and removal shall be performed upon failure to pay any fee or for violation of any provision of these rules. The business (applicant) shall furnish all business signs.

7. When a business sign is removed, it will be taken to the business during normal business hours. If the sign cannot be left with the business (closed, new owners, etc.), it will be taken to the district office of the district in which the business is located. The business will be notified of such removal and given 30 days in which to retrieve their business sign(s). After 30 days the business sign will become the property of the department and will be disposed of as the department shall see fit.

8. Should the department determine that trailblazing to a business that is signed for at the interchanges is desirable, it shall be done with an assembly (or series of assemblies) consisting of a ramp size business sign and an appropriate white on blue arrow. The business shall furnish all business sign(s) required and deemed necessary by the department.

9. Should a business qualify for business signs at two interchanges, the business sign(s) will be erected at the nearest interchange. If the business desires signing at the other interchange also, it may be so signed provided it does not prevent another business from being signed. Should a business qualify for two or more services at one business location, it may do so provided the secondary business does not prevent another primary business from participating in the program. The primary business will be determined by the department.

10. When it comes to the attention of the department that a participating business is not in compliance with the minimum criteria, the business will be notified that it has a maximum of 30 days to correct any deficiencies or its signs will be removed. If the business later applies for reinstatement, this request shall be handled in the same manner as a request from a new applicant with a service charge per sign for reinstallation.

11. The department reserves the right to cover or remove any or all business signs in the conduct of its operation or whenever deemed to be in the best interest of the department or the traveling public without advance notice thereof. The department reserves the right to terminate this program or any portion thereof by furnishing the business written notice of such intent not less than 30 calendar days prior thereto.

12. At such time the department determines that an interchange is no longer rural in nature, the businesses will be so notified and the business signs will be removed by the department at the end of that year.

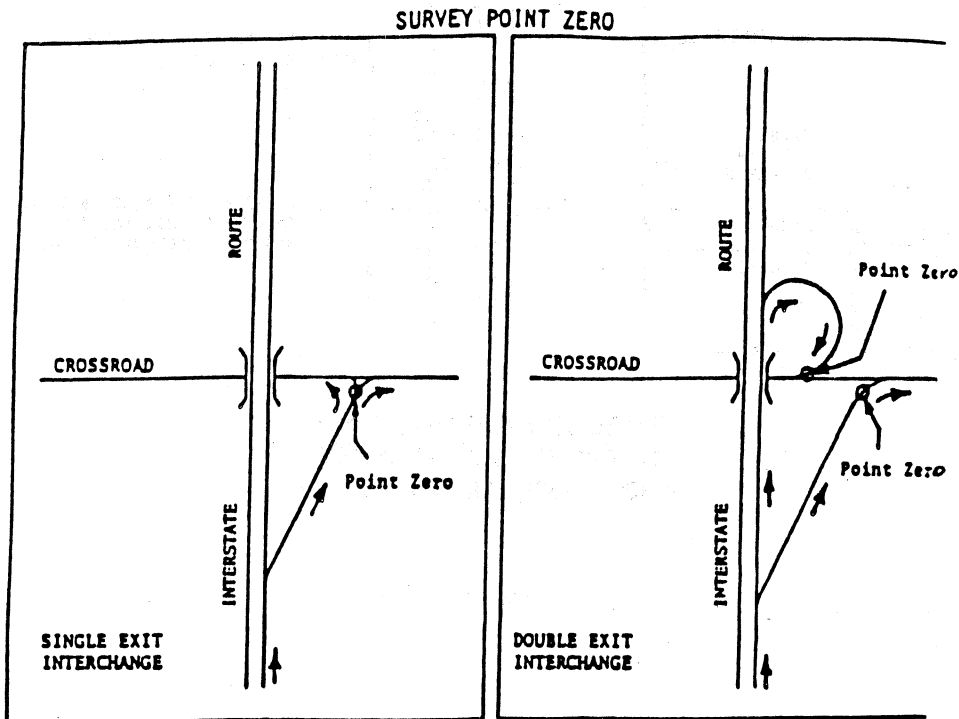


FIGURE 1

INTERCHANGE SKETCH

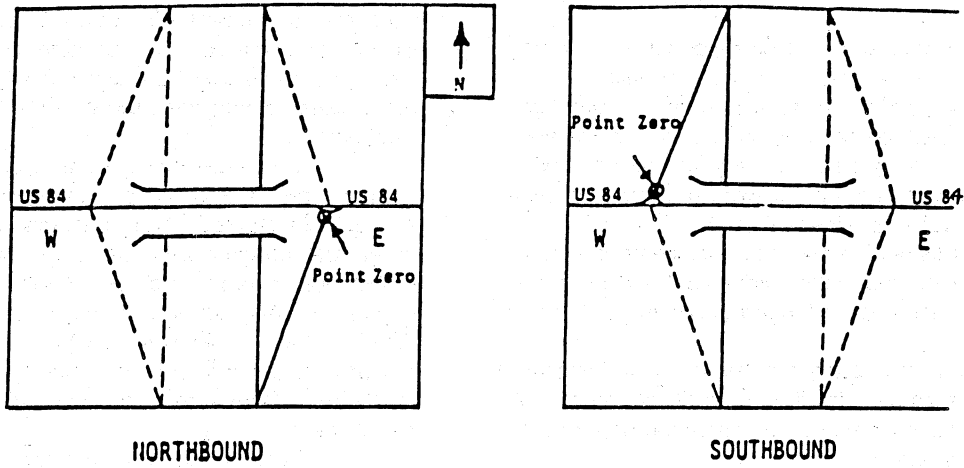
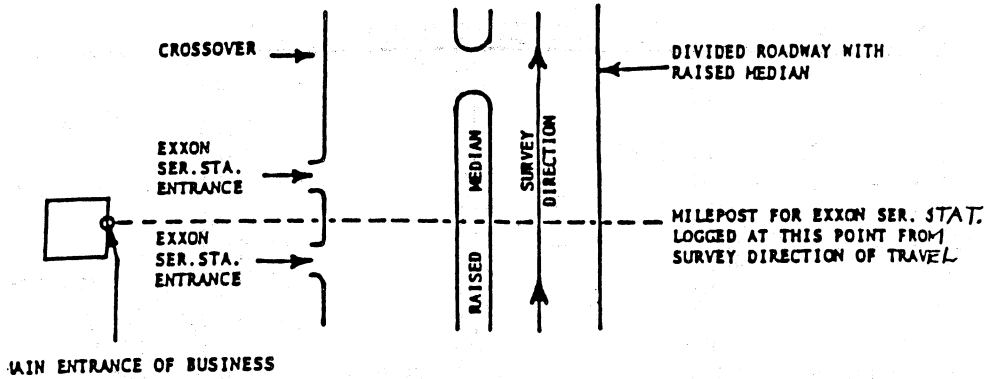


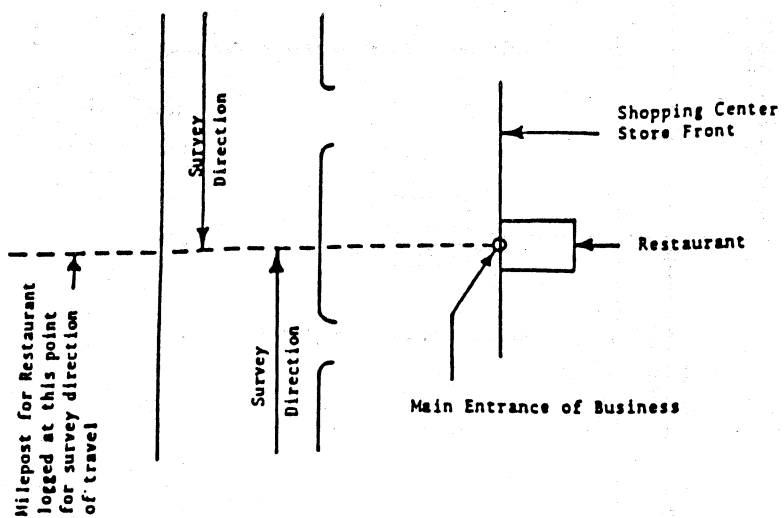
FIGURE 2

MILEPOST RECORDING EXAMPLES



TRAVEL SERVICE ESTABLISHMENT
ON OPPOSITE SIDE OF DIVIDED
ROADWAY FROM SURVEY DIRECTION

FIGURE 3



SHOPPING CENTER - BUSINESS VISIBLE

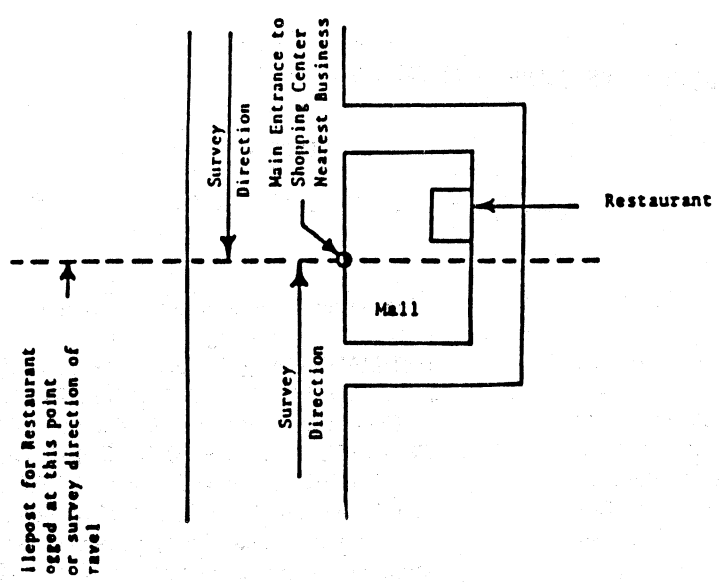
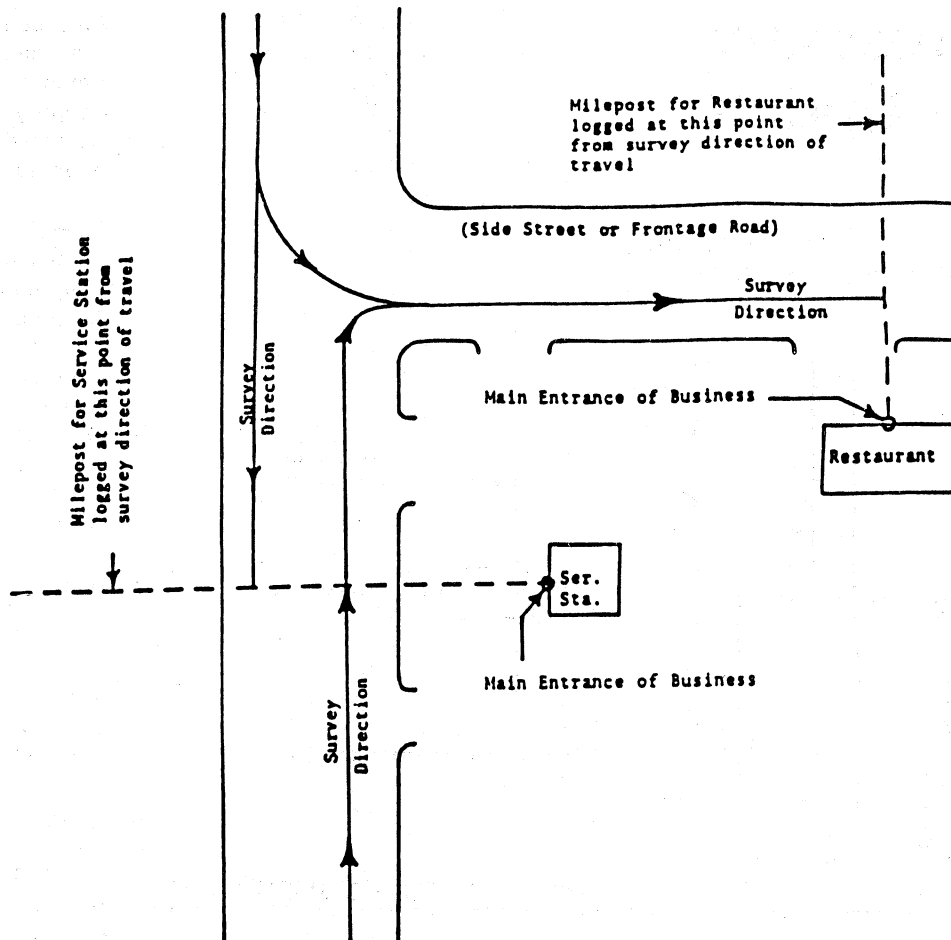


FIGURE 4



BUSINESS ON CORNER AND SIDE STREET

FIGURE 5

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:461.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, LR 18:

All interested persons so desiring shall submit oral or written data, views, comments or arguments no later than 30 days from the date of publication of this notice of intent to: Coan J. Bueche, Acting Director, Traffic and Planning, Department of Transportation and Development, Box 94245, Baton Rouge, LA 70804-9245, Phone: (504) 358-9131.

Jude W. P. Patin
Secretary

**Fiscal and Economic Impact Statement
For Administrative Rules
Rule Title: Installation of Specific Services (LOGO)
Signing**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs to DOTD is \$16,581 / year.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated revenue collection to DOTD is \$12,000.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Some businesses may be able to stay in business or increase business by participating in the Logo Program but it is not possible to calculate the economic benefits. It should be noted that nobody will make a decision to establish a business based solely on their ability to participate in the Logo Program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is bound to be some increase in competition and employment it is most probably minimal at best.

Jude W. P. Patin
Secretary

David W. Hood
Senior Fiscal Analyst

Administrative Code Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE January, 1992 through June, 1992

Vol.	Title:Part.Section	Effect	Location LR 18 Month	Page
1	LAC 10			
	I.113,115	Adopted	Feb	144
	I.Chapter 27	Adopted	Jan	24
	V.Chapter 1	Amended	Apr	392
	VII.301	Amended	Jan	26
	LAC 35			
	I.1733	Amended	Apr	367
	I.1737	Amended	Apr	369
	I.1775	Amended	Apr	368
	III.5702	Amended	Apr	366
	III.2101	Amended	Apr	367
	V.6319	Amended	Apr	367
	V.6329	Amended	Apr	368
	VII.8903	Amended	Apr	369
	XIII.11115	Amended	Apr	366
	XV.12357	Amended	Apr	366
2	LAC 7			
	I.105	Adopted	Feb	144
	XXIII.Chapter 131	Adopted	Mar	247
	XXIX.15107-15113	Amended	Mar	249
	XXXIX.Chapter 209	Adopted	Jun	597
3	LAC 46			
	I.501	Amended	Jun	599
	I.511	Adopted	Jun	599
	I.1117	Amended	Mar	250
	XXXIII.104	Adopted	Jun	614
	XXXIII.Chapter 3	Amended	Jun	612
	XXXIII.415,419	Amended	Jun	615
	XXXIII.706,707	Adopted	Jun	611
	XXXIII.Chapter 12	Adopted	Jun	615
	XLIX.Chap.1-15	Repeal/Repromul	Feb	181
	XLIX.1701	Repromulgated	May	507
	LIII.729-751	Amended	Mar	273
	LIII.753,755	Repealed	Mar	274
	LV.307,308	Amended	Jan	30
	LIX.Chapters 1-9	Amended	Feb	189
	LX.Chapters 5,9,13	Amended	Jan	51
	LX.Chapters 7,8	Amended	Mar	269
	LXVII.Chapter 34	Adopted	Jan	24
	LXVII.Chapter 103	Amended	Jun	600
	LXVII.Chapter 105	Adopted	Feb	144
	LXVII.10307	Amended	Jun	599
	LXXXV.501	Amended	Apr	380
	LXXXVI.Chapters 1-7	Adopted	Apr	381
4	LAC 4			
	VII.937	Amended	Mar	269
	VII.1141,1143	Amended	Jun	610
	VII.1199,1201	Amended	Jun	611
	VII.1229	Amended	Mar	267
	VII.1273	Adopted	Mar	265
	IX.503	Amended	Jun	610
	IX.2001	Adopted	Jun	610
5	LAC 76			
	I.301	Amended	May	508
	I.315	Amended	Mar	290
	I.321	Adopted	Jan	82
	III.107	Adopted	Mar	290
	VII.125	Amended	Mar	294
	VII.163	Adopted	Mar	294
	VII.201	Adopted	Jan	81
	VII.201,203	Repromulgated	Feb	198
	VII.203	Adopted	Jan	82
	VII.341	Adopted	Feb	199
	VII.345	Adopted	Feb	199
6	LAC 22			
	I.103	Amended	Jan	77
	IX.Chapters 1,2	Repromulgated	Feb	164
	IX.Chapters 1-4	Adopted	Jan	44
	LAC 55			
	I.1773-1787	Amended	Mar	283
	I.Chapter 23	Adopted	Mar	283
	I.Chapter 24	Adopted	Feb	196
7	LAC 40			
	I.Chapter 7	Repromulgated	Feb	148
	I.2715	Repromulgated	Mar	257
	III.Chapters 1-17	Adopted	Feb	167
	IV.333	Amended	Apr	372
	IV.309	Adopted	Apr	372
	XIII.121,133	Amended	Apr	372
	XIII.121	Repromulgated	May	493
8	LAC 48			
	I.Chapter 91	Adopted	Jan	57
9	LAC 48			
	I.Chapter 135	Adopted	Feb	182
	I.15101	Adopted	Jan	54
	I.15103	Adopted	Feb	181
	I.Chapter 161	Adopted	Feb	185
10	LAC 61			
	II.101	Adopted	Mar	287
	V.909	Amended	Feb	197
11	LAC 33			
	III.Chapter 15	Amended	Apr	374
	III.3155	Adopted	Feb	150
	III.3337	Adopted	Mar	262
	III.3337	Repromulgated	Apr	376
	III.3525	Adopted	Apr	377
	III.3795	Adopted	Apr	380
	III.3805	Adopted	May	496
	III.3815	Adopted	Jun	610
	III.4841	Repromulgated	Apr	376
	III.4865	Adopted	May	493
	III.4881	Adopted	Feb	158
	III.4885	Amended	Jan	31
	III.4887	Amended	Jan	31
	III.4891	Adopted	Feb	150
	III.6523	Repromulgated	Jan	31
12	LAC 33			
	III.6088	Adopted	Mar	258
13	LAC 33			

	V.10305	Repromulgated	Jan	78
14SW	LAC 33			
	VII.Chap.103,105	Adopted	Jan	34
	VII.10307	Amended	Feb	164
15	LAC 33			
	XV.Chap.1,3,7,20	Amended	Jan	34
	XV.Chapter 14	Repeal/Repromul	Jun	604
16	LAC 73			
	I.309,561	Amended	May	508
17	LAC 43			
	I.Chapter 8	Adopted	Mar	281
	I.1515	Amended	Apr	391
	V.101,103	Amended	Jan	70
	XI.Chapter 1	Amended	Jan	64
	XI.Chapter 25	Adopted	Jan	60
18	LAC 28			
	I.313	Adopted	Jun	602
	I.1523	Amended	Jan	29
	I.1523	Amended	Jan	30
	I.1525	Adopted	Jun	602

POTPOURRI

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

Categories of Minor Sources of Toxic Air Pollutants

Under R.S. 30:2060.N, as amended in 1991, the secretary of the Department of Environmental Quality (DEQ) is mandated to develop and publish, by July 1992, a list of categories of minor sources of toxic air pollutants which may reasonably be expected to pose a threat to human health. Through this notice, DEQ is fulfilling the statutory requirement of R.S. 2060.N.4 by publishing an initial list of minor source categories. The department requests comment on the initial list and on the development of regulatory provisions for minor source categories of toxic air pollutants. Timely input from the public and the regulated community will assist the department in addressing issues and concerns prior to formal proposal of rules and regulations. Comments should be submitted prior to October 20, 1992 and should be addressed to: Chuck Handrich, Department of Environmental Quality, Air Quality Division, Box 82135, Baton Rouge, LA 70810.

The department is required to include on the minor source category list those categories which operate in Louisiana and which are listed by EPA pursuant to Title III, §112(c)(3) of the federal Clean Air Act Amendments (CAAA). Section 112(c)(3) directs EPA to make a comprehensive listing of area (minor) source categories by November 15, 1995. EPA also has the discretion under §112(c) to list area source categories and subcategories prior to establishing the comprehensive area source category list, provided the administrator determines that the category presents a threat of adverse effects warranting regulation under §112. EPA has proposed the initial federal list of source categories to be regulated pursuant to §112 (F.R. 56:120.28548, June 21, 1991). Although the federal list has not been finalized, the most current available draft document (January 1992) includes several area source categories for which EPA has

made a finding of threat of adverse effects to human health or the environment.

DEQ has chosen to include on the initial list of minor source categories published here today, those area source categories included on the most current draft listing by EPA pursuant to §112, with the exception of asbestos related activities. In part, this approach was chosen in an effort to coordinate the state and federal minor source programs to the greatest degree appropriate. Asbestos related activities are excluded because DEQ is already administering an extensive asbestos program under LAC 33:III.5151. The determination that the minor source categories on this initial list may reasonably be expected to pose a threat to human health is supported by the fact that EPA has made a similar finding for each of the listed categories.

R.S. 30:2060 further requires that DEQ propose air toxic rules and regulations to govern the list of minor source categories by December 31, 1993. However, the department wishes to stress that inclusion of a minor source category on the list today does not necessarily indicate that control technology or process standards are forthcoming in the near future. In order to facilitate development of an effective minor source program, DEQ intends to request emissions data from facilities in those source categories listed here today, as well as from facilities in other minor source categories currently under consideration for listing. Initially, emissions data will be requested under the authority of LAC 33:III.919 and R.S. 30:2060.E. DEQ may revise the initial list of minor source categories as appropriate prior to proposal of regulations. Through rulemaking, emissions reporting requirements will be incorporated in the general provisions governing all listed minor source categories. In cases where the need for technical control requirements is established, and particularly for source categories for which federal standards development is already under way, the department may propose category specific subchapters concurrently with proposal of the general provisions.

**Louisiana Comprehensive Toxic Air Pollutant
Emission Control Program
Initial List of Minor Source Categories**

- Chromic Acid Anodizing
- Commercial Dry Cleaning, Transfer Machines
- Commercial Dry Cleaning, Dry-to-Dry Machines
- Commercial Sterilization Facilities
- Decorative Chromium Electroplating
- Gasoline Distribution (Stage 1)
- Halogenated Solvent Cleaners
- Hard Chrome Electroplating
- Hospital Sterilization Facilities
- Industrial Process Cooling Towers

Joan Albritton
Administrator

POTPOURRI

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

Public Hearing

The Department of Environmental Quality, Air Quality Division will hold a public hearing on August 24, 1992 at 1:30 p.m. in the Maynard Ketcham Building, Room 341 (Recital Room), 7290 Bluebonnet Boulevard, Baton Rouge, LA. This hearing is to receive comments regarding the proposed State Implementation Plan (SIP) for establishment of the Louisiana Small Business Technical Assistance Program (SBTAP) pursuant to the Federal Clean Air Act Amendment, Section 507 and R.S. 30:2060.N.6. Interested persons are invited to attend and submit oral comments on the proposed SIP.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 25, 1992, at 4:30 p.m., to David Hughes, Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or to 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. A copy of this proposed SIP will be available August 3, 1992 from the Enforcement and Regulatory Compliance Division, Box 82282, Baton Rouge, LA, 70884-2282 or from 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA, 70810. Check or money order is required in advance for each copy of the proposed SIP.

Joan Albritton
Administrator

POTPOURRI

**Department of Environmental Quality
Office of Water Resources**

The Department of Environmental Quality, Office of Water Resources, Municipal Facilities Division, will conduct a Public Hearing to present for public review and comment, the proposed FY 1993 Municipal Facilities Project Priority List and the proposed FY 1993 Municipal Facilities Revolving Loan Fund Intended Use Plan. The priority list is a ranking of communities that are eligible to request financial assistance through the Municipal Facilities Revolving Loan Fund. The Intended Use Plan identifies the intended uses of funds available to the Revolving Loan Fund and the criteria and method for their distribution. The priority list is prepared in accordance with the provisions in 40 CFR 35.2015-2025 and Section 216 of the Federal Clean Water Act. The Intended Use Plan is prepared in accordance with the provisions in 40 CFR 35.3150 and Section 606(c) of Title VI of the Federal Water Quality Act of 1987.

The public hearing will be held on August 19, 1992, at 10 a.m. in the sixth floor hearing room of the Department of Environmental Quality, 7290 Bluebonnet Boulevard, Baton Rouge, LA. Interested persons may submit written comments to William B. DeVillie, Administrator, Municipal Facilities Division, Box 82263, Baton Rouge, LA 70884-2263. Written com-

ments will be received until August 28, 1992.

Copies of the proposed FY 1993 Municipal Facilities Priority List and the proposed FY 1993 Intended Use Plan will be available for public review at least 30 days prior to the public hearing at the Department of Environmental Quality, Municipal Facilities Division, 7290 Bluebonnet Boulevard, Room 6311, Baton Rouge, LA, and in the following Department of Environmental Quality regional offices throughout the state.

- | | |
|---|--|
| Acadiana Regional Office
100 Asma Boulevard, Suite 151
Lafayette, LA | Northeast Regional Office
804 North 31st Street
Monroe, LA |
| Bayou Lafourche Regional Office
302 Barataria Street
Lockport, LA | Northwest Regional Office
1525 Fairfield, Room 11
Shreveport, LA |
| Capitol Regional Office
11720 Airline Highway
Baton Rouge, LA | Southeast Regional Office
3945 N. I-10 Service Rd. W.
Metairie, LA |
| Kisatchie Central Regional Office
402 Rainbow Drive, Building 402
Pineville, LA | Southwest Regional Office
1155 Ryan Street
Lake Charles, LA |

J. Dale Givens
Assistant Secretary

POTPOURRI

**Department of Health and Hospitals
Louisiana Health Care Authority**

Nominations are being sought to fill seven vacancies on the LHCA governing board. The governor must appoint seven additional at-large members to the board from a list of 28 nominations. Fourteen of the 28 nominations must come from legislators, and four of the seven appointments must come from the legislative nominees.

Nominations should come from legislators, other elected officials, community-based, labor, civic, business and professional organizations and interested persons.

No more than two members may be appointed from each public service commission district. Members of the board must comply with the Code of Governmental Ethics, and in addition cannot own or have any interest or part in any public or private organization, business, company or entity conducting business with the authority or any of its nine medical centers.

Geographic diversity, ethnic diversity and diversity in expertise and perspective must be maintained in making appointments.

Contact Billy C. Cadwallader at (504) 342-9501 for a copy of the official LHCA nominee application form. Applications must be submitted to Mrs. Cadwallader, Confidential Assistant to the DHH Secretary, Box 629, Bin 2, Baton Rouge, LA 70821-0629 by close of business Friday, July 31.

J. Christopher Pilley
Secretary

POTPOURRI

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

Notice is hereby given that in the notice of intent appearing in the June 20, 1992 issue of the *Louisiana Register* (page 643) regarding the enactment of rules relating to the practice of Utilization Review in Louisiana, the opening sentence should have read, "The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule."

J. Christopher Pilley
Secretary

POTPOURRI

**Department of Natural Resources
Office of the Secretary
Fishermen's Gear Compensation Fund**

In accordance with the provisions of R.S. 56:700.1 et seq., notice is given that 33 claims in the amount of \$79,717.07 were received in the month of June 1992, no claims were paid, and three claims were denied.

Loran C. coordinates of reported underwater obstructions are:

26811	46966	Cameron
27577	46951	Iberia
28547	46895	Jefferson
28562	46864	Jefferson
28557	46859	Jefferson
28264	46825	Lafourche
28307	46864	Lafourche
28760	47040	Lake Ponchartrain
28732	46861	Plaquemines
28827	46803	Plaquemines
29001	46955	St. Bernard
27958	46867	Terrebonne
27894	46861	Terrebonne

A list of claimants, and amounts paid, may be obtained from the Fishermen's Gear Compensation Fund, Box 94396, Baton Rouge, LA 70804, or by telephone (504) 342-0122.

John F. Ales
Secretary

POTPOURRI

**Department of Social Services
Office of Community Services**

**Three-Year Low-Income Home Energy
Assistance Program Plan, 1991-93**

The Department of Social Services, Office of Community Services will hold public hearings concerning the continued use and distribution of federal fiscal year 1993 LIHEAP Block Grant funds in accordance with the 1991-1993

Final Three-Year Low-Income Home Energy Assistance Program Plan. The 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. 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 an allocation based on the state's total grant and the population of low-income households.

As the possibility of a funding reduction for FFY 1993 LIHEAP program exists, the Office of Community Services will also present and accept comments or recommendations regarding possible program changes to compensate for the loss of revenue. Copies of the three-year plan and amendments to the plan will be available for review at the hearings. The Department of Social Services, Office of Community Services will accept written recommendations and/or comments concerning administration of the LIHEAP program from the public through September 11, 1992.

Copies of the three-year plan and proposed amendments to the plan are available by writing to Brenda Kelley, Assistant Secretary, Office of Community Services, Box 44367, Baton Rouge, LA 70804.

Hearings will be held at the following times and places: Tuesday, August 25, 1992, 900 Murray Street, Alexandria, Room 209, at 11 a.m. Wednesday, August 26, 1992, 1525 Fairfield Avenue, Shreveport, LA, Ninth Floor Conference Room, at 10 a.m. Friday, August 28, 1992, 2026 St. Charles Avenue, Magnolia Room, New Orleans, Magnolia Room, at 11 a.m.

Gloria Bryant-Banks
Secretary

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