

ANNOUNCEMENT

TO: All State Agencies, Boards and Commissions

Requirements for publishing in the *LOUISIANA REGISTER* have changed due to our automating (computerizing) the production processes. This automation necessitates training, and our office has designed a seminar combining:

- 1) *New Requirements for Submitting Register Documents for Publication; and*
- 2) *A Review of the Provisions of the ADMINISTRATIVE PROCEDURE ACT as These Pertain to the Rulemaking Process.*

The training is expressly designed for individuals who research, compose, review and/or administer their agency's rules; individuals who monitor their agency's new or amended rules as they progress through the rulemaking process; and individuals who serve as legal counsel to agencies, boards and commissions. Presentations include:

OVERVIEW OF RULEMAKING: fiscal requirements; publishing requirements, public comments and hearings, legislative oversight review; and time frames for Administrative Procedure Act compliance.

DOCUMENT COMPOSITION: legal formatting of rules and rule amendments; composition guidelines; legal document requirements; and the Louisiana Administrative Code codification system.

Upcoming Seminar Dates are: **JUNE 4, JULY 7, AUGUST 3, AND SEPTEMBER 2, 1993.**

If your office has not yet been contacted regarding training, please contact the Office of the State Register, (504) 342-5015, to select a date for this mandatory three-hour training.

The Office of the State Register

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EXECUTIVE ORDERS

EXECUTIVE ORDER EWE 93-6

WHEREAS: to insure increased participation by the broadest number of minority-owned businesses, Louisiana Minority Business Enterprise Act (R.S. 39:1952, et seq.) requires a 10 percent set aside for each fiscal year for awarding to minority businesses; and

WHEREAS: departments and agencies within the executive branch are to comply with the letter and spirit of said law; and

WHEREAS: some departments and agencies within the executive branch are violating the spirit of the law by designating certain areas to be exclusively set aside for minorities;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby order and direct that all departments and agencies within the executive branch comply with all the provisions of the Louisiana Minority Business Enterprise Act, but no department or agency within the executive branch shall designate any particular area to be set aside exclusively for minorities.

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 2nd day of March, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-7

WHEREAS: the gaming industry in Louisiana is developing at a rapid rate; and

WHEREAS: the Charitable Gaming Industry in Louisiana has developed pursuant to a state and local regulatory scheme, enacted in a piecemeal manner prior to the present rapid growth in the gaming industry; and

WHEREAS: the present regulatory scheme has resulted in inconsistencies in the regulation of the charitable gaming industry throughout the state; and

WHEREAS: our state would benefit from a charitable gaming regulatory scheme which streamlines regulation of that industry throughout the state; and

WHEREAS: a Charitable Gaming Task Force is necessary

to determine a comprehensive, complete, and uniform regulatory scheme for the charitable gaming industry;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby establish the Governor's Task Force on Charitable Gaming within the Executive Department, Office of the Governor and do hereby order and direct as follows:

SECTION 1: The Governor's Task Force on Charitable Gaming is established and created within the Executive Department, Office of the Governor.

SECTION 2: The Governor's Task Force on Charitable Gaming shall be composed of the following members:

1. the governor or his designee;
2. the deputy secretary of Public Safety Services, or his designee;
3. the secretary of the Department of Revenue and Taxation, or his designee;
4. four at-large members appointed by the governor.

SECTION 3: The governor shall appoint the chairperson and vice chairperson of the Governor's Task Force on Charitable Gaming.

SECTION 4: The Governor's Task Force on Charitable Gaming shall meet at times and dates as requested by the governor.

SECTION 5: A majority of the task force shall constitute a quorum.

SECTION 6: The members of the Governor's Task Force on Charitable Gaming shall receive no compensation for their services. Reimbursement of actual expenses incurred by the performance of their duties may be made, if approved and authorized by the commissioner of administration.

SECTION 7: The duties and functions of the Governor's Task Force on Charitable Gaming shall include, but shall not be limited to the following:

1. identifying and examining those areas of the charitable gaming industry which are presently uniformly regulated throughout the state and those that are not, and those areas that are presently regulated by the state and those that are presently regulated by local governments;
2. identifying and examining those areas of charitable gaming which are presently neither regulated by the state nor regulated by the local governments;
3. determining those areas of the charitable gaming industry which should be subject to uniform state regulation;
4. determining the substance of potential state regulations of Charitable Gaming;
5. submitting a report to the governor by October 1, 1993, which shall include a summary of the issues and areas considered, the conclusions reached by the majority, any opinions of the minority, and any legislative recommendations; and
6. any other duties and functions as required by the governor.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Governor's Task Force on Charitable Gaming in implementing the provisions of this Executive Order.

SECTION 9: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of March, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-8

WHEREAS: defaults on guaranteed student loans by students attending colleges, universities, trade schools, and proprietary schools in Louisiana have become a serious financial problem; and

WHEREAS: the Program Integrity Triad section (494) of the Higher Education Act of 1992 recently enacted by the federal government provides that each state shall designate a postsecondary review entity for performing a review of institutions of higher education; and

WHEREAS: the federal government has authorized the United States Secretary of Education to enter into agreements with and provide funding for the state's postsecondary review entity; and

WHEREAS: the federal government is authorized to form such an entity for a state if it fails to do so; and

WHEREAS: the federal funds made available for establishing such an entity will be distributed on a first come first serve basis;

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 Post Secondary Review Commission within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Louisiana Post Secondary Review Commission is hereby created and established within the Executive Department, Office of the Governor,

SECTION 2: The Louisiana Post Secondary Review Commission shall be responsible for the conduct and coordination of the review of institutions of higher education under Section 494 of the federal Higher Education Act of 1992.

SECTION 3: The Louisiana Post Secondary Review Commission shall have the authority to enter into agreements with the secretary of the United States as provided for by the guidelines established in Section 494 of the Act.

SECTION 4: The Louisiana Post Secondary Review Commission shall have the authority to apply for funding as provided for by Section 494 of the Act.

SECTION 5: The chairman of the Louisiana Post Secondary Review Commission shall be appointed by the governor.

SECTION 6: The members of the Louisiana Post Secondary Review Commission shall be appointed by and serve at the pleasure of the governor, and shall receive no compensation for their services.

SECTION 7: The Post Secondary Review Commission shall consist of the following:

- A. education advisor to the governor, or designee;
- B. chair, Louisiana Board of Regents, or designee;
- C. chair, Louisiana Association of Independent Colleges and Universities, or designee;
- D. chairman, Proprietary School Commission, or designee;
- E. chair, Louisiana Bankers Association, or designee;
- F. chair, Board of Secondary and Elementary Education, or designee;
- G. chair, Louisiana Office of Student Financial Assistance, or designee;
- H. governor's executive counsel, or designee.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Louisiana Post Secondary Review Commission in implementing the provisions of this Executive Order.

SECTION 9: The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 25th day of March, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EXECUTIVE ORDER EWE 93-9

WHEREAS: the federal Clean Air Act Amendments of 1990, the federal Energy Policy Act of 1992, and applicable, existing state laws require and/or encourage the state to convert the state's vehicle fleet to an alternative fuel-using vehicle fleet; and

WHEREAS: the State of Louisiana not only desires to comply with the applicable federal and state laws requiring conversion of state vehicles to alternative fuels but also desires to surpass these laws to the greatest extent possible; and

WHEREAS: the State of Louisiana desires to set an example for the nation on the economics, viability, and advantages of utilizing alternative fuels, particularly natural gas, as a motor fuel; and

WHEREAS: the State of Louisiana seeks to improve the overall efficiency of the state's vehicle fleet, to reduce the overall emissions of hydrocarbons and oxides of nitrogen where possible, to develop a long term means of reducing fuel and operating costs of the state vehicle fleet, and to take full advantage of the state's natural gas resources in fueling a portion of the state's vehicle fleet; and

WHEREAS: in order to achieve the aforementioned goals, it is necessary for the Louisiana Department of Natural Resources to prepare and issue Requests for Proposals (RFP's) to solicit bids for the conversion of state motor vehicles to natural gas using vehicles to the maximum extent feasible;

NOW, THEREFORE I, EDWIN W. EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested in me by the Constitution and laws of the state of Louisiana, do hereby order and direct the following in order to convert the state motor vehicle fleet to a natural gas using fleet:

SECTION 1: Preparation and Issuance of Requests for Proposals. The Louisiana Department of Natural Resources shall prepare and issue Requests for Proposals (RFP's) to solicit bids for conversion of the state motor vehicle fleet to a natural gas using fleet to the maximum extent feasible.

SECTION 2: Alternative Fuels to be Used. The RFP's shall require that the alternative fuel used must be either natural gas or a direct derivative of natural gas. This shall include compressed natural gas (CNG), liquified natural gas (LNG), and liquified petroleum gas (LPG). Furthermore, the fuel supplied shall be made entirely from natural gas produced entirely within the state jurisdictional boundaries of Louisiana, to the extent legally possible.

SECTION 3: Initial Conversion Goal. The initial goal of this program shall be to convert a minimum of 25 percent of the state's vehicle fleet to natural gas using vehicles.

SECTION 4: Cooperation of State Agencies

A. All state departments, agencies, boards, commissions, authorities, task forces, and divisions shall cooperate with the Department of Natural Resources and/or their designee by providing the Department of Natural Resources with requested information, by responding to the RFP, and by cooperating in any other necessary manner.

B. After a contractor is selected, all state departments, agencies, boards, commissions, authorities, task forces, and divisions shall cooperate and participate to the greatest extent feasible with the contractor by providing data on fleets and vehicles for conversion, by providing data on the performance and use of vehicles after conversion to natural gas use, and by cooperating in any other necessary manner.

SECTION 5: Cooperation of the Louisiana Property Assistance Agency. The Louisiana Property Assistance Agency and, particularly, the state motor fleet manager, shall serve as a point of contact for the proposer and the Department of Natural Resources and shall assist the Department of Natural Resources in any other necessary manner.

SECTION 6: Effective Date. The provisions of this Executive Order are effective upon signature and shall remain in effect until amended, modified, or rescinded by operation of law.

IN WITNESS WHEREOF, I have hereunto set my hand

officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day of March, 1993.

Edwin Edwards
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State

EMERGENCY RULES

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Pesticide and Environmental Programs

St. Tammany Parish Herbicide Ban (LAC 7:XXIII.13139)

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

The 1993 herbicide application season has begun, making this emergency adoption necessary in order that the department may put into place regulations banning the use of herbicides in St. Tammany Parish rights-of-way, ditches or along roadsides.

The effective date of this emergency rule is April 30, 1993, and it shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 131. Advisory Commission on Pesticides

Subchapter I. Regulations Governing Application of Pesticides

§13139. Restrictions on Application of Certain Pesticides

* * *

M. No person shall apply, use, or incorporate the use of any herbicide, as defined in LAC 7: 13103, including but not limited to, those registered with and/or approved by the U. S. Environmental Protection Agency or the Louisiana Department of Agriculture and Forestry, for the management, control, eradication or maintenance of weeds, grass, trees, shrubs, foliage, vegetation or other natural growth in any parish right-of-way, ditch, servitude, drainage area, roadside, road shoulder, green area, buffer zone, waterway, neutral ground

or median in the unincorporated areas of St. Tammany Parish.

1. Definitions as used in this Subsection M:

a. *Right of way*—any public way, street, road, ally, easement, servitude or access, which was dedicated to or acquired by the St. Tammany Parish to provide means of access to abutting properties; whether paved, improved or unimproved, including those areas dedicated for proposed or future uses.

b. *Ditch*—natural or dedicated area which provides for the containment or flow of water from rain or adjacent drainage areas or waterways such as streams, creeks, ponds, lakes or rivers.

c. *Servitude*—a right-of-way through or across property belonging to another.

d. *Easement*—a designated right to use the property of another for a specific purpose, e.g., drainage, utility easement.

e. *Drainage Area*—an area maintained for the purpose of channeling or preventing accumulation of water from surrounding land.

f. *Roadside\Road Shoulder*—natural or dedicated areas which are parallel, contiguous to, abut, adjoin, border, edge, connect or approach any public right-of-way, road, street or highway.

g. *Median\Neutral Ground*—the area dividing or separating a roadway and not used for right of passage.

2. Exemptions herefrom are hand held manual pump sprayers up to a maximum three gallon capacity.

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

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Structural Pest Control Commission

Termiticide Foam Applications (LAC 7:XXV.14136)

The commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to his authority under R.S. 3:3203(A) adopts the following emergency rule.

This emergency adoption is necessary in order that the department may immediately put into place regulations adopted by the Structural Pest Control Commission allowing the use of termiticide foam applications on post-construction treatments.

The effective date of this emergency rule is April 14, 1993, and it shall remain in effect for 120 days or until it takes effect through the normal promulgation process, whichever is shortest.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 141. Structural Pest Control Commission §14136. Termiticide Foam Applications

Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on post-construction treatments for the control, prevention or eradication of termites and other wood destroying insects.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:

Bob Odom
Commissioner

DECLARATION OF EMERGENCY

Economic Development and Gaming Corporation

Corporation Formation, Powers and Liability (LAC 42:IX.Chapters 9-13)

The Board of Directors of the Louisiana Economic Development and Gaming Corporation adopts these articles of incorporation, by-laws and rules of procurement as emergency rules this tenth day of May, 1993, to be effective for 120 days hereafter. The emergency circumstances are statutorily created. The enabling legislation, R.S. 4:601 et seq. states in Section 620 (d) that:

"For purposes of expeditious implementation of the provisions of this Chapter, the promulgation of initial administrative rules shall constitute a matter of imminent peril to public health, safety and welfare as provided in R.S. 49:953 (B)."

The Board declares that the aforementioned rules are the first part of its initial administrative rules and thus are statutorily granted emergency status.

Title 42

LOUISIANA GAMING

Part IX. Casino Gambling

Subpart 2. Economic Development and Gaming Corporation

Chapter 9. Articles of Incorporation

§901. Statement of Authority

The Louisiana Legislature has expressed its desire to establish a casino in the state of Louisiana, and, to do so the Louisiana Legislature has adopted the Louisiana Economic Development and Gaming Corporation Act, Louisiana Revised Statutes 4:601 et. seq. (sometimes hereafter referred to as the act). In adopting the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Legislature acknowledged that the operation of a casino is unique to state government and legislatively determined that the regulation of

the casino should be undertaken by a separate, independent corporate entity and not an agency or political subdivision of the state of Louisiana. Consequently, pursuant to the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Legislature created the Louisiana Economic Development and Gaming Corporation (the "corporation"), which is vested with broad powers to regulate the official gaming establishment casino and to oversee any and all games connected therewith. The Louisiana Economic Development and Gaming Corporation Act further detailed the governance and operation of the corporation by a board of directors (the "board") and a president (the "president") of the corporation. In accordance with the Louisiana Economic Development and Gaming Corporation Act, the board hereby adopts the following corporate articles setting forth certain matters appropriate to the operation of a corporation of the nature of the Louisiana Economic Development and Gaming Corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§903. Formation and Continuation

A. Commencement of Existence

Pursuant to Section 611 of the Act, the existence of the corporation commenced on the date that a majority of the members of the board of directors of the corporation were confirmed by the Senate, which occurred on or about December 16, 1992.

B. Principal Business Office

1. Unless otherwise designated as provided in §903.C.1 the principal business office of the corporation (the "principal business office") shall be located at:

Louisiana Economic Development and
Gaming Corporation
One Canal Place
365 Canal Street, Suite 2700
New Orleans, LA 70130

2. The corporation may have such other offices within the state of Louisiana as the board deems necessary or appropriate. Notice of the location of the principal business office shall be provided to the Louisiana secretary of state and the recorder of mortgages in East Baton Rouge and Orleans Parishes via the recordation of these corporate articles.

C. Change in Location of Principal Business Office

1. A change in the location of the principal business office may be authorized at any time by the board provided that the new principal business office shall be located in Orleans Parish, New Orleans, Louisiana. Within 30 days after a change of location is completed, notice of the change, and the post office address of the new principal business office, shall be filed with the Louisiana secretary of state and with the recorder of mortgages in East Baton Rouge and Orleans Parishes. If the principal business office is vacated by the corporation, a new principal business office shall be designated by the board, and notice of the change and of the post office address of the new office shall be filed with the secretary of state and with the recorder of mortgages of East Baton Rouge and Orleans Parish within 30 days of such

designation. If the notice of change provided hereunder is not filed within that period, the New Orleans office of the attorney general shall thereafter be deemed to be the principal business office until the appropriate filing of a notice of a new principal business office with the secretary of state and with the recorder of mortgages of East Baton Rouge and Orleans Parish.

Attorney General Richard Ieyoub's Office
Attn: Louisiana Economic Development
and Gaming Corporation
234 Loyola, 7th Floor
New Orleans, LA 70130

2. The principal business office shall be considered the domicile of the corporation for all purposes except for venue purposes as described in R.S. 4:606.

D. Duration

The corporation shall have perpetual existence, unless earlier dissolved in accordance with §909.A hereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§905. Powers of the Corporation

A. Description of Powers

Subject to the limitations stated in the Louisiana Constitution, the act and general provisions of Louisiana law, the corporation shall have the power and authority to regulate the official gaming establishment and do all things related and in furtherance thereof. Without limiting the generality of the foregoing, the corporation shall have the following specific powers and authority:

a. in any legal manner to acquire, hold, use and alienate or encumber property of any kind;

b. in any legal manner to acquire, hold, vote and use, alienate and encumber, and to deal in and with shares, memberships or other interests in, or obligations of, other business, non-profit or foreign corporations, associations, partnerships, joint ventures, individuals or government entities (collectively an "entity");

c. to make contracts and guarantees, including guarantees of the obligations of other entities;

d. to incur liabilities, borrow money and secure any of its past, present or future obligations by the pledge, pawn, mortgage, collateral mortgage, hypothecation or granting of a security interest of any kind of property, which security may be created by security documents which may include a confession of judgment and all other usual and customary Louisiana security document provisions;

e. enter into other obligations or evidences of indebtedness;

f. to lend money for its corporate purposes and invest and reinvest funds, and to take and hold, sell or exchange property or rights of any kind as security for loans or investments;

g. to elect or appoint officers and agents, to define their duties and fix their compensation;

h. to pay pensions and establish pension plans, pension trusts, profit sharing plans and other incentive and benefit plans for any or all of its directors, officers and employees;

- i. enter into procurement including issuance of requests for proposals for contracts authorized by the act;
- j. sue and be sued in its corporate name, and as a corporate entity;
- k. adopt a corporate seal and a symbol;
- l. hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;
- m. appoint agents upon which process may be served;
- n. acquire immovable property and make improvements thereon, subject to the prior approval of the Joint Legislative Committee on the Budget;
- o. make, solicit, and bid requests for proposals and offers for major procurement, in accordance with law or rules and regulations of the corporation including:

i. contracts for major procurement after competitive negotiation, bidding, or other procedure authorized pursuant to the Louisiana Procurement Code, or the corporation may adopt special rules and regulations pursuant to the provisions of this part providing for special procedures whereby the corporation may make any class of procurement including the authority to negotiate a reduced price. Such procedures shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public. In its bidding and negotiation processes, the corporation may do its own bidding and procurement may utilize the services of the division of administration central purchasing agency or other set agency or division. The president of the corporation may with approval of the board declare an emergency for purchasing purposes; and

ii. contracts to incur debt in its own name and enter into financing agreements with the state, its own agencies, or with a commercial bank, excluding the authority to issue bonds.

B. Powers of the Board

All of the corporate powers of the corporation shall, to the extent not specifically delegated to other persons, agencies or entities pursuant to the Louisiana Economic Development and Gaming Corporation Law, be vested in, and the business and affairs of the corporation shall be administered by, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19: §907. **Indemnification and Limitation of Liability**

A. Right to Indemnification

Each person who was or is a party, or is threatened to be made a party to, or is otherwise involved in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (a "proceeding"), by reason of the fact that such person is or was a director, officer, employee or agent of the corporation, whether the basis of such proceeding is alleged to be as a result of such person's action or failure to act, may be indemnified and held harmless by the corporation against any and all expenses, attorneys' fees, liabilities, losses, judgments, fines and amounts paid or to be paid in settlement, which amounts are, in any case, actually and reasonably incurred; provided (all the

following are met) that such person:

- a. must have acted in compliance with the corporation's rules of conduct, as amended from time to time, and any other rules and regulations now or hereafter adopted by the corporation;
- b. must have acted in good faith;
- c. must have acted in a manner that he or she reasonably believed to be in, or not opposed to, the best interests of the corporation; and
- d. in the case of an action or failure to act that may constitute criminal conduct, such person must not have been convicted or entered a plea of guilty, nolo contendere or similar plea with respect to such conduct.

B. Payment of Expenses in Advance

The corporation may pay, in advance of final disposition of a proceeding, a director's, officer's, employee's or agent's reasonable expenses, including attorney's fees, incurred by such person in defending any such proceeding; provided, however, that the payment of such expenses in advance of the final disposition of such proceeding shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such person, in which such person agrees to repay all amounts so advanced if it should be ultimately determined that such person is not entitled to be indemnified under this §907.

C. Applicability of Rights

The ability of the board to indemnify or to grant the reimbursement or advancement of expenses pursuant hereto is intended to be retroactive and shall be available with respect to events occurring prior to the adoption hereof. The rights granted hereunder shall continue to exist after the rescission or restrictive modification hereof with respect to events occurring prior thereto, and may be applied to acts or failures to act of officers, directors, employees and agents of the corporation committed or omitted during such person's tenure with the corporation despite the fact that such person no longer serves in such capacity.

D. Insurance

The corporation may maintain insurance at its expense to protect itself and any director, officer, employee or agent of the corporation against any expense, liability or loss incurred by such person in connection with his or her service to the corporation.

E. Authority of the Board

The board shall make all determinations under this §907 relating to the payment or advance of any moneys and the standard of conduct necessary therefor. However, a director shall not vote on any decision or determination relating to his or her actions, failure to act or other matter under this §907. in which the director has an interest (all directors not so disqualified are hereinafter "disinterested directors"). If any person or persons are disqualified from voting hereunder, the quorum and voting requirements hereunder shall be based on the number of persons not disqualified from voting on such issues. The board may make the payment or advancement of any amounts hereunder subject to such terms and conditions as they deem appropriate.

F. Limitation of Liability

No director, officer, employee or agent of the corporation shall be personally liable to the corporation or otherwise for

monetary damages for breach of fiduciary duty as a director, officer or employee, except for liability resulting from any of the following:

- a. for breach of the director's, officer's, employee's or agent's duty of loyalty to the corporation;
- b. for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
- c. for any transaction from which the director, officer, employee or agent derived an improper personal benefit; or
- d. for any action or failure to act that violates the rules of conduct of the corporation, as amended from time to time, and any other rules and regulations now or hereafter adopted by the corporation. The determination of whether a person has met the applicable standards of conduct under this §907.F shall be made by a vote of disinterested directors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§909. Miscellaneous

A. Dissolution

The corporation may be dissolved and the operations thereof wound up only upon vote of the Louisiana Legislature to so dissolve and wind up the corporation or to repeal the enabling legislation adopted by the Legislature relating to the corporation and regulation of a casino. Within 90 days of the date of the final adoption of any such legislation, the board shall appoint one or more liquidators, which liquidator or liquidators shall have all of the rights, powers, duties and authority of the officers of the corporation and the board, and the rights, powers, duties and authority of the officers and directors of the corporation shall cease, except the power and authority of the board to remove or replace any of the liquidators, and such other rights, powers, duties and authority as may be retained by the board or granted by law. In all other respects and except as otherwise provided by the legislature, the corporation shall be liquidated in the same manner and according to the same rules that govern the liquidation of Louisiana corporations (Louisiana Revised Statutes 12:141 et seq.). In the event of dissolution or final liquidation of the corporation, the board shall, after paying or making provision for the payment of all the lawful debts and liabilities of the corporation, distribute all the assets of the corporation to the state of Louisiana or any successor corporation, commission, board or entity designated by the legislature.

B. No Instrumentality of the State; No Private Inurement

While, as stated in the statement of authority, the corporation is not an agency or political subdivision of the state of Louisiana, the corporation has been formed for a public purpose and shall not be deemed an instrumentality of the state of Louisiana except as otherwise specifically provided in the act or these articles. No part of the net earnings, gains or assets of the corporation shall inure to the benefit of or be distributable to its directors, officers, other private individuals or organizations organized and operated for a profit (except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes hereinabove stated).

C. Amendment

An amendment, modification, deletion or alteration (an "amendment") of these corporate articles, or any provision hereof, may be adopted by vote of at least six members of the board at a duly called regular or special meeting of the board; provided that, the text of the proposed amendment shall be submitted to the board at the regular meeting most recently preceding the regular meeting at which such amendment is to be considered. Any amendment so adopted by the board shall not become effective until adopted in accordance with LAC 42:IX.1109 of the corporation's by-laws and rules of procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

Chapter 11. By-laws and Rules of Procedure

§1101. Statement of Purpose

The Louisiana Economic Development and Gaming Corporation (the "corporation") was formed pursuant to Louisiana Revised Statutes 4:601 et. seq., which is entitled The Louisiana Economic Development and Gaming Corporation Act (hereafter referred to as the "act"). The act directed the corporation to adopt various rules and procedures governing various aspects of the operation of the corporation. To comply with this mandate, the board of directors of the corporation (hereafter referred to as the "board") has adopted these by-laws and rules of procedure (sometimes referred to as "rules of procedure" or "rules").

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1103. Directors

A. Number and Classes of Directors

All of the corporate powers of the corporation shall be vested in, and the business and affairs of the corporation shall be administered by the board which consists of nine members, as more specifically set forth in the act. The governor shall appoint the chairman of the board and the board shall annually elect a vice-chairman and a secretary from among its members. The chairman shall conduct all meetings of the board, and, unless appointed to a committee of the board as a regular member, shall be an ex-officio, non-voting member of each committee of the board. The vice-chairman shall act in the absence of the chairman. The secretary shall give, or cause to be given, notice of all meetings of directors and committees thereof, immediately upon being directed by the persons responsible for providing notice, and all other notices required by law or by these by-laws, and in case of his or her absence or refusal or neglect to do so, any such notice may be given by the director, directors or officer upon whose request the meeting is called as provided in these by-laws. The secretary shall record or cause to be recorded all the proceedings of the meetings of the directors and committees thereof in a book or books to be kept for such purpose. The foregoing officers of the board shall also have such powers, duties, responsibilities and authority as is granted to them by resolution of the board.

B. Place of Meetings

Regular meetings of the directors may be held at any place within the state of Louisiana as the board may determine by vote of at least five members thereof. If the board does not vote upon, or at least five directors cannot agree upon, a place for any meeting, or if the notice of a meeting does not designate a location for such meeting, such meeting shall be at the corporation's principal business office located as stated in the corporation's corporate articles, as may be changed from time to time in accordance with the corporate articles.

C. Regular Meetings of the Board

Regular meetings of the board shall be held upon the call of chairman if the board by resolution adopts a specific day or days of each week or month, as applicable, for the regular meetings of the board. No notice of any such regularly scheduled meeting other than that required by Louisiana Revised Statutes 42:7 shall be required to be delivered to any member. Notice as required by Louisiana Revised Statutes 42:7 shall be given of all meetings of the board or any committee thereof by posting of a copy of the notice at the principal business office of the corporation and by mailing or telecopying a copy of the notice to any member of the news media who has requested notice of meetings. Attendance at any meeting without objection to the notice thereof prior to the conduct of the business of such meeting shall constitute a waiver of notice.

D. Special Meetings of the Board

Special meetings of the board may be called at any time by call of five or more of the members of the board or by the chairman subject to providing the notice required by Louisiana Revised Statutes 42:7(A)(2). Special meetings shall be held at the principal business office of the corporation unless otherwise agreed to by at least 6 members of the board. The effective date of any notice provided with respect to a special meeting of directors shall not be affected by the subsequent determination to hold a special meeting other than at the principal business office.

E. Reserved

F. Notice of Meetings

Notice of meetings of the board and committees thereof shall be given in accordance with R.S. 42:7.

G. Quorum, Proxies and Rules

At all meetings of the board, the presence of five of the directors in office and qualified to act shall constitute a quorum for the transaction of business, and the action of a majority of the voting power present at any meeting at which a quorum is present shall be the action of the board, unless the concurrence of a greater proportion is required for such action by law, the corporate articles or these by-laws and rules of procedure. If a quorum is not present at any meeting of directors, the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. A director may not attend a meeting of the board or any committee thereof by proxy. The board may adopt internal parliamentary procedures for the conduct of its meetings in accordance with the provisions of R.S. 49:951(6) which shall not constitute administrative rules of the corporation.

H. Resignation

The resignation of a director shall take effect upon the

effective date of the delivery of a written resignation to the chairman or on any later date specified therein, but in no event more than 30 days after such receipt.

I. Vacancies

The office of a director shall become vacant if he or she dies, resigns or is removed in accordance with the act.

J. Reserved

K. Committees of the Board

The chairman may designate one or more committees, each committee to consist of the directors of the corporation as determined by the chairman (and one or more directors may be named alternate members to replace any absent or disqualified regular member of such committee) pursuant to the following provisions:

a. such committee or committees shall have such name or names as may be determined, from time to time, by the chairman. The president and chairman shall each be an ex-officio member of each committee of the chairman. Any vacancy occurring in any such committee shall be filled by the chairman;

b. The presence of a majority of the members of a committee at any meeting thereof shall constitute a quorum, and the business of a committee shall be transacted, and notice provided, in the same manner as set forth herein for the board.

L. Reliance on Reports and Records

A director shall, in the performance of his or her duties as a director or a member of a committee, be fully protected, and, if such conduct meets the requirements of the corporate articles, shall be entitled to indemnification under such corporate articles, if such director relies, in good faith, upon the records of the corporation or upon such information, opinions, reports or statements presented to the corporation, the board or any member or members of a committee thereof by the attorney general, by any of the corporation's officers, employees or agents, appraiser, engineer, or independent or certified public accountant selected by the board or any committee thereof with reasonable care, or by any other person as to matters the director reasonably believes are within such other person's professional or expert competence and which person is selected by the board or any committee thereof with reasonable care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1105. Officers

A. Corporation President

The president of the corporation shall be appointed by the board subject to the approval of the governor. Should the governor refuse to approve the appointed of the president by the board, then the board shall submit another name. The person whose appointment was refused shall not be renamed for approval for a period of two years. The governor shall, within 30 days after the nomination of the president by the board, either approve or reject the nomination.

B. Powers and Duties of the President

The president of the corporation shall manage the affairs of the corporation and shall have such powers and duties as

specified by the board of directors. The president shall not be a member of the board. The president of the corporation shall serve at the pleasure of the board which shall set the compensation of the president. The president of the corporation (the "president") shall manage the daily affairs of the corporation and shall serve as chief executive officer of the corporation, with general management of the corporation's business and power to make contracts in the ordinary course of business; shall appoint such officers as he or she deems appropriate, including, without limitation, a vice-president and a secretary-treasurer; shall see that all orders and resolutions of the board are carried into effect and direct the other officers and agents of the corporation in the performance of their duties; shall have the power to execute all authorized instruments; and shall generally perform all acts incident to the office of president, or which are authorized or specified by law or the board, or which are incumbent upon him or her under the provisions of the corporate articles or these by-laws and rules of procedure. The president shall serve at the pleasure and will of the board.

C. Vice President

The president shall employ a vice president and a secretary-treasurer with such duties as are assigned by the president. Such officers shall serve at the pleasure of the president. In the absence or disability of the president, the vice-president shall perform the president's duties and exercise his or her powers. The vice-president shall serve at the pleasure and will of the president.

D. Secretary-Treasurer

A secretary-treasurer of the corporation (the "secretary-treasurer") shall be appointed by the president and shall have custody of all funds, securities, evidences of indebtedness and other valuable documents of the corporation; shall receive and give, or cause to be received and given, all moneys paid to or by the corporation and receipts and acquittance for moneys paid into or for the account of the corporation; shall enter, or cause to be entered, in the books of the corporation to be kept for that purpose, full and accurate accounts of all moneys received and paid out on account of the corporation, and, whenever required by the president or the board, he or she shall render a statement of his or her accounts; shall keep or cause to be kept such books as will show a true record of the expenses, gains, losses, assets and liabilities of the corporation; shall, in the absence of the secretary of the board, perform the duties and exercise the powers of the secretary; and shall perform all of the other duties incident to the office of secretary-treasurer as determined or directed by the president or the board. If required by the board or the president, the secretary-treasurer shall give the corporation a bond for the faithful discharge of his or her duties and for restoration to the corporation, upon termination of his or her tenure, of all property of the corporation under his or her control. The secretary-treasurer shall serve at the pleasure and will of the president.

E. Assistants

Assistants to the president, vice-president or secretary-treasurer may be appointed by the president or, with the approval of the president, by the officer under whom such assistant serves, and shall have such duties as may be

delegated to them by the president or the officer under whom such assistant serves. Each assistant shall serve at the pleasure and will of the president.

F. Compensation

The compensation of the president shall be fixed by the board, and the compensation of all other officers shall be determined by the president, subject to the prior approval of the board.

G. Term of Office

Each officer of the corporation or assistant thereto shall, unless he or she resigns or is earlier terminated by the corporation, hold office until his or her successor is chosen and qualified in his or her stead. Any officer elected or appointed by the board or president may be removed at any time by the affirmative vote of the board or by action of the president, unless such power is specifically limited to action by the board (e.g., appointment of the president). If the office of any officer or assistant becomes vacant for any reason, the vacancy shall be promptly filled by the president. No vacancy need be filled if the board or the president determines that the office in which such vacancy occurs need not be filled; provided that the corporation shall maintain the offices of president, vice-president and secretary-treasurer.

H. Absence

In the case of the absence of any officer of the corporation or an assistant thereto, or for any other reason that the board or president may deem sufficient, the board or president may delegate any of the powers or duties of any officer or assistant to any other officer or employee of the corporation or designee of the board. For purposes of these by-laws, an officer not yet hired or retained shall be deemed absent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1107. Miscellaneous Provisions

A. Fiscal Year

The fiscal year of the corporation shall begin on July 1 and end on June 30 of each year.

B. Checks, Drafts, Notes, Etc.

All checks, drafts or other orders for the payment of money, and notes or other evidences of indebtedness, issued in the name of the corporation shall be signed by such officer or officers of the corporation and in such manner as shall be determined by the board, from time to time, or pursuant to any written forms or instructions filed at any financial institution that issues such checks, drafts or other orders for payment.

C. Registered Agent

The register agents of the corporation for service of process shall be the chairman and the attorney general or his designated assistant.

D. Notice

1. Whenever any notice is required by these by-laws and rules of procedure to be given, such notice is sufficient if given by:

a. personal service (which notice shall be effective upon delivery); or

b. telephone, teletype, telefax or similar electronic communication; or

c. delivery of such notice by registered or certified mail, return receipt required; or

d. air freight, overnight delivery of which is recorded.

2. Any such notice shall be addressed to the person or entity receiving such notice at his, her or its last known address as it appears in the records of the corporation.

E. Waiver or Modification of Receipt of Notice

Whenever any notice of the time, place or purpose of any meeting of directors or a committee thereof is required by law, the corporate articles or these by-laws and rules of procedure, a waiver or modification thereof in writing, signed by the person or persons entitled to such notice and filed with the board secretary's records of such meeting, before or after the holding thereof, or actual attendance at the meeting of directors or committee thereof, is equivalent to the giving of such notice, except with respect to the notice required by Louisiana Revised Statutes 42:7.

F. Amendment

An amendment, modification, deletion or alteration (an "amendment") of these by-laws and rules of procedure, or any provision hereof, may be adopted by vote of at least six members of the board at a duly called regular or special meeting of the board. Any amendment so adopted by the board shall not become effective until adopted in accordance with §1109.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1109. Special Procedures for Promulgation of Rules, By-laws and Articles of Incorporation

A. Generally

In accordance with Louisiana Revised Statutes 4:620 and 659, the board has adopted and shall adhere to the following special procedures relating to the adoption and promulgation of rules, by-laws and articles of incorporation.

a. No less than five and no more than 30 days after the board intends to consider a rule, by-law or article of incorporation change or promulgation, the board shall cause to be published in the official journal of the state or the corporation, a notice of intent stating the general subject matters to be covered by its proposed rules, by-laws or articles of incorporation, and the date, time and place of the public meeting at which the proposed change or promulgation will be considered. The notice of intent shall also state that interested persons may appear at the meeting and make comments regarding the proposed rule, by-law or article.

b. Within 40 days of the public hearing and adoption of any such rule or regulation, as described in Subsection A.1 above, the board shall cause to be published in at least one of the publications listed in Subsection A.1 above, a notice of the adoption of such rules or by-law or article. The board may also publish the full text of the rules or regulation in the official journal of the state or the corporation.

c. Within seven days after publication of notice of adoption in the official journal of the state or the corporation, the president shall transmit a copy of any such rule or

regulation, the published notice of intent, the notice of adoption and any comments received to the speaker of the House of Representatives, the president of the Senate, and the chairman of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B.

d. Absent a legislative hearing and decision to reject such a rule or regulation as described in Louisiana Revised Statutes 4:659, the adopted rule, by-law or article of incorporation shall be effective 21 days after receipt of the proposed rules by the presiding officers in accordance with R.S. 4:659 (B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1111. Special Procedures for Hearings on Alleged Violations of the Rules of Conduct

A. Hearings

1. The board or the ethics committee established by the board shall not impose any penalty for violation of the corporation rules of Conduct without a hearing and after reasonable notice informing such person or entity of:

a. the date, time and place of such hearing;

b. a reference to the specific rules of conduct such person or entity is alleged to have violated; and

c. a short and plain statement of the matters asserted.

2. At such hearing, the person or entity subject to such hearing shall have the right:

a. to be represented by counsel;

b. to call and examine witnesses to the production of evidence;

c. to introduce evidence and exhibits; and

d. to cross-examine opposing witnesses.

3. However, no person against whom such a proceeding is instituted may require production of security or confidential records of the corporate corporation unless relevant to the alleged misconduct of the person for whom the hearing is held.

B. Determinations

After conclusion of a hearing held pursuant hereto, the board or the ethics committee, as the case may be shall begin deliberations on the evidence and then proceed to determine by majority vote whether there has been a violation of the rules of conduct, and, if so, what is an appropriate penalty for such violation. The findings of the board or the ethics committee may, but need not, be made public.

C. Record of Hearings

The board or the ethics committee, as the case may be, shall cause a record to be made of all hearings held pursuant hereto. Such record may, but need not, be made public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1113. Other Special Procedures for Hearings

A. Application

The procedures stated in this Section shall apply to an appeal by a casino gaming operator, gaming operator, distributor, licensee, permittee, under contractor, or applicant

or other person or party of a corporation adjudication, decision or determination rendered in the act. For purposes of this Section, the term "appellant" shall mean a person adversely affected by a decision of the corporation or the board.

B. Appellant Request

Prior to initiating an appeal of the presidents or other officer's decision, order or adjudication an appellant must send the president a request letter stating the action of which the appellant seeks reconsideration or modification and all reasons the appellant advances for reconsideration or modification. The request letter must state the appellant's name and address, must enclose copies of all documents relevant to the request and must be signed by the appellant. The appellant must represent that all facts stated in the request letter are correct to the best knowledge of the appellant. The president shall respond to the request letter in writing within 10 days of the corporation's receipt of it, stating all reasons for the response.

C. Notice of Appeal

An appellant may appeal the president's denial of all or any part of the appellant's request stated in the appellant's request letter by sending the president a notice of appeal. The notice of appeal shall be effective only if it is in writing, states the substance and basis of the appeal, and is received by the corporation within 10 days of the appellant's receipt of the president's letter advising the appellant of the president's determination or decision. The notice may request that the hearing be expedited, provided that such a request shall constitute an undertaking by the appellant to pay the costs assessable under §1113.E. Upon receipt of a notice of appeal, the president shall deliver the notice, the appellant's request letter and the president's denial letter to the board. In the event a corporation president has not been selected, the appellant shall make his or her appeal directly to the board in the same manner as prescribed in §1113.B, including the filing of a request letter with the board.

D. Hearing

The board shall consider the appeal within 30 days of receipt of the notice of appeal. The chairman may call a special meeting of the board to hear an appeal if the appellant has requested an expedited hearing and the chairman in his sole discretion believes that the appeal warrants an expedited hearing. The president shall give the appellant reasonable notice of the time and location of the board meeting. The appellant shall be permitted to present the appeal orally for a time period determined by the board, committee or hearing officer. The presentation may not include points or subjects which were not included in the appellant's request letter. The corporation shall keep a complete record of the hearing and shall make it available to the appellant. A committee or a board appointed independent hearing officer may make recommendations in writing with supporting reasons to the board for its final action. The board shall render its decision on the appeal by majority vote at the hearing of the appeal.

E. Costs

If the appellant requested an expedited hearing, and the board conducts the expected hearing at a special meeting called for that purpose and the board denies the appeal, the board may then charge the appellant the corporation's reasonable costs incurred in connection with the special

meeting and hearing, including any travel and per diem expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

Chapter 13. Procurement Policies and Rules §1301. Policy Statement

In accordance with the act and particularly with R.S. 4:620, 621 and 623 the board of directors of the Louisiana Economic Development and Gaming Corporation adopts these policies and rules in order to assure public confidence in the procedures followed by the corporation in procuring the items, products and services necessary to conduct its business and operations as authorized by the act. Public confidence depends on the corporation developing and maintaining procurement procedures that: are subject to the highest ethical standards; promote the acquisition of high quality goods and services at competitive prices; promote administrative efficiency; recognize that the regulation of a casino is a unique activity; and afford fair treatment of all persons offering their products and services to the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1303. General

A. Definitions

The following terms shall have the following meanings when used in these policies and rules unless the context clearly indicates otherwise:

Act or The Act—the "Louisiana Economic Development and Gaming Corporation act" or the provisions of Louisiana Revised Statutes 4:601 et. seq.

Authorized Officers—the president, the vice president, the secretary-treasurer, the procurement officer and all persons designated as division heads in the corporation's organizational structure from time to time.

Board—the board of directors of the corporation as established and existing pursuant to the act.

Business—any corporation, partnership, individual, joint stock association, sole proprietorship, joint venture, business association, cooperative association, professional corporation or any other legal entity through which business is conducted.

Contractor—any vendor, entity or business with which the corporation has entered into a procurement contract.

Director—a member of the board.

Louisiana Laws—all provisions of the statutes in the Constitution of the State of Louisiana and all statutes, codes, rules and regulations.

Major Procurement—shall have the same meaning ascribed to such term in §605(23) of the act.

Minor Procurement—shall have the same meaning ascribed to such term in §605(24) of the act.

Person—any business, individual, union, committee, club, firm, corporation or other organization or group of individuals.

Procurement—the acquisition by the corporation of any goods or services in return for a cash payment or the promise thereof. The term shall not include:

- i. acquisitions from an agency or political subdivision of the state of Louisiana;
- ii. employment contracts with individuals;
- iii. financing; or
- iv. contracts for goods or services provided as part of, or related to, a lease of immovable property.

Procurement Agent—the officer of the corporation appointed by the president, or the board in the absence of the president, to manage and supervise procurement from time to time.

Procurement Authorization Form—the document prepared by the corporation pursuant these procurement rules by which a procurement is authorized.

Request for Proposals or RFP—the document prepared and issued by the corporation pursuant to §1305.B of these policies and rules.

Special Circumstances—the circumstances meeting the requirement of or described in §1305.J of these procurement rules.

Special Procurement—an emergency or special procurement authorized in §1305.J of these policies and rules.

B. Authority of the Corporation

These procurement rules are adopted pursuant to the power granted the corporation under the act. These procurement rules are supplemental to and may be utilized in substitution of all Louisiana laws relating to procurement. These policies and rules when utilized shall, pursuant to the Louisiana Economic Development and Gaming Corporation Act, render Louisiana laws on procurement inapplicable to the corporation. Additionally, these policies and rules shall be deemed to incorporate any adopted or promulgated corporation rules of conduct, the Louisiana Code of Governmental Ethics and the act and no procurement rule, policy or practice of the corporation under these special procedures shall be construed to allow any procurement by the corporation which would otherwise be prohibited by the act, the corporation rules of conduct, or the Louisiana Code of Governmental Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1305. Major Procurement Procedures

A. Applicability of Section

The provisions of this Section shall apply to all major procurement.

B. Initiation of Procurement

The corporation shall initiate a major procurement by preparation of a "procurement authorization form" which authorized the procurement. The procurement authorization form shall to the extent possible clearly state the goods or services to be procured, the corporation's need for the goods or services, an estimate of the anticipated range of cost of the procurement and a listing of potential contractors. The listing of potential contractors shall include all businesses on the list of interested contractors as provided in these rules and who are known to the corporation as being in the business of supplying the desire goods or services and any business from whom a response to the corporation's request for proposals would, in the opinion of the procurement agent, enhance the

competition among businesses for the procurement contract. The board may by resolution authorize and designate a person or persons to sign procurement authorizations.

C. Preparation of Request for Proposals

Upon execution of a procurement authorization, the corporation shall prepare a request for proposals which shall include, at a minimum, the following information:

- a. specifications of the goods or services required by the corporation, prepared in such a manner as to promote comparability of responses by potential contractors;
- b. a requirement that all responding proposals be in writing and the time by and place at which all responding potential contractors should submit proposals; and
- c. a listing of the criteria the corporation will use in evaluating proposals by responding potential contractors and the relative weight the corporation will give the respective criteria.

D. Dissemination of RFP

The corporation shall give public notice of the RFP by advertising its issuance in the official journal of the state or the corporation. The advertisement shall appear at least 20 days before the last day that the corporation will accept proposals by potential contractors unless a shorter period is authorized by the board. The advertisement shall generally specify the goods or services required by the corporation, the last date that the corporation will accept proposals and an address at which a copy of the RFP can be obtained. The corporation may advertise the issuance of a RFP in trade journals which serve the interests of businesses likely to respond to the RFP. Additionally, the corporation shall mail or make available a copy of the RFP to potential contractors who have requested in writing to be notified of major procurement for acquisition of specific products or services in accordance with these procurement rules.

E. Cancellation or Amendment of RFP

The corporation may cancel or amend any outstanding RFP by written notice to all businesses to which the RFP was sent or given. The reasons for cancellation or amendment of an RFP shall be stated in the notice sent by the corporation. The corporation shall deliver a copy of the notice and reasons to the directors.

F. Acceptance and Evaluation of Proposals

1. The corporation shall consider and evaluate all proposals responding to the RFP which are submitted in compliance with the deadline and other requirements stated in the RFP. The Corporation may waive any deficiency or non-conformity of a proposal or provide the responding business a reasonable period of time to cure the deficiency or non-conformity, provided that the board determines such action does not prejudice the status of other proposals. At any time prior to completion of the evaluation process, the corporation may request any responding potential contractors to clarify or expand upon provisions of their proposals. The corporation shall evaluate proposals in a manner consistent with the RFP. The procurement contract shall be awarded in the corporation's sole and uncontrolled discretion.

2. The RFP may allow potential contractors or bidders to submit written requests for clarification and the procurement agent or the board may conduct one or more bidder

conferences which shall be open to all potential bidders or contractors. All potential bidders who have requested clarification or notice thereof shall be transmitted all clarification information.

G. Acceptance of RFP Terms and Criteria; Objections to RFP

The submission of a proposal for a major, emergency or minor procurement, without prior written objection to the form, criteria or content of the RFP shall constitute a waiver of any objection thereto. Such a submission shall also constitute and be an express agreement to be bound by the form, specification, evaluation criteria and content of the RFP as well as the decision of the corporation in awarding the procurement.

H. Preparation of Contract

Upon completion of the evaluation and mutual acceptance of all terms of the proposal by the corporation and the contractor, the corporation shall prepare the contract. The contract shall unless specifically otherwise authorized by the board contain, at a minimum, the following:

- a. the name and address of the contractor;
- b. the goods to be delivered or the services to be performed under the contract;
- c. the term of the contract and a statement giving the corporation the right to terminate the contract unilaterally upon 90 days written notice;
- d. a provision giving the corporation the right to audit those financial records of the contractor which relate to the contract;
- e. a provision that the contractor shall not transfer any interest in the contract without the prior written consent of the corporation (except that claims for money due or to become due to the contractor from the corporation under the contract may be assigned to a bank, trust company or other financial institution but that the corporation shall not be bound by the assignment unless furnished timely and sufficient notice of it);
- f. a provision that the contractor shall bear responsibility for paying any taxes which become due as a result of payments to the contractor under the contract;
- g. a provision that upon termination of the contract all records, reports, worksheets or any other materials related to the contract may at the discretion of the corporation become the property of the corporation;
- h. a provision obligating the contractor to provide the corporation with notice of any material adverse change in its condition, financial or otherwise;
- i. a provision requiring the payment of liquidated damages to the corporation upon a material breach of the contract by the contractor; and
- j. a provision that Louisiana laws will govern the contract.

I. Authorization and Execution of Contract

The corporation shall not execute a contract for a major procurement unless the board reviews and approves the contract. The board may authorize execution of the contract in a form substantially similar to the form presented to the board for review or approval.

J. Preservation of Integrity of Procurement

In order to preserve the honesty, fairness and

competitiveness of the procurement process, the following restrictions on dissemination of information shall apply, and non-compliance with any of them shall constitute a violation of the rules of conduct of the corporation:

a. prior to board consideration of final proposal, directors, officers and employees of the corporation shall not disclose or discuss with any person not employed by the corporation or its consultants, the contents of a proposal or a communication, regarding a proposal, to or with, a potential contractor unless otherwise authorized by the board;

b. directors, officers and employees of the corporation shall not disclose to any potential contractor any information proprietary to the corporation and pertinent to the procurement for which the potential contractor may submit a proposal.

K. Emergency or Special Procurement

1. Notwithstanding any other provision of these policies and rules to the contrary, the corporation may make any class of procurement, including major procurement, without complying strictly with the procedures stated in this Section if, to the best of the board's knowledge, any of the following special or emergency circumstances then exist and these circumstances do not reasonably allow compliance with the procurement procedures otherwise required by this Chapter:

- a. a threat to public health, welfare or safety or the integrity or operation of the corporation;
- b. a unique, non-recurring opportunity to obtain goods or services at a substantial cost savings;
- c. a sponsorship arrangement permitting the corporation to acquire goods or services at a reduced cost or cost-free;
- d. the structure of the applicable market does not permit the corporation to procure the goods or services via a competitive bidding process;
- e. the goods or services which meet the corporation's reasonable requirements can be provided only by a single business;
- f. due to time constraints not caused by the corporation, compliance with each of the policies and rules stated in this Section would materially impair the financial performance of the corporation; or
- g. the corporation can not commence initial operation without the required goods or services specifically including, but not limited to initial and temporary office space, office equipment, telecommunications and duplication services, insurance coverage including liability insurance and health insurance, office supplies, banking and financial services, office assistance, consulting services, security services, clerical services, and data processing.

2. An emergency or special procurement shall be made only after the board, president, or procurement agent determines the existence of any of the emergency special circumstances and states the reasons for the determination in a report delivered to the board. It must be made in compliance with as many of the requirements of this Section as practicable under the circumstances as determined by the board or the president. The board may, by affirmative action prior to the completion of the emergency and special procurement, reverse the president's determination and direct the corporation not to make the emergency or special

procurement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1307. Minor Procurement Procedures

A. Applicability of Section

The provisions of this Section shall apply to all minor procurement.

B. Supervision by Procurement Officer

The president, procurement agent or other person designated by the board shall supervise, manage and bear responsibility for all minor procurement. The procurement agent or designated person shall establish written procedures for making competitive minor procurement to the maximum degree possible and will assure the corporations's compliance with these procedures. At the board's request, the procurement officer or designated person shall offer these procedures to the board for review, and the board may modify these procedures in its discretion.

C. Minimum Requirements of Procedures

Procedures established by the procurement officer or person designated by the board pursuant to this Section shall, at a minimum, require:

a. that no minor procurement shall be structured as such in order to avoid the policies and rules applicable to procurement stated in §1305;

b. that, in instances where a sole source contractor is used, it shall be fully justified in writing prior to the procurement and retained as part of the file. This requirement will not apply to procurement made under this Section against a standing order contract that was entered into on a competitive basis;

c. that all disbursements by the corporation for minor procurement be by check signed by two authorized or designated persons;

d. that the corporation reasonably justify no changes the need for the minor procurement; and

e. the corporation undertake reasonable steps, considering the size of the minor procurement, to obtain high quality goods or services at competitive costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

§1309. Miscellaneous Provisions

A. Appeals

Appeals of any action of the corporation or its officers, employees, agents or board under these policies and rules shall be made in accordance with the by-laws of the corporation.

B. Amendment

These policies and rules may be amended according to the by-laws and rules of procedure of the corporation.

C. List of Potential Contractors or Vendors

The corporation shall provide a procedure whereby potential contractors or vendors may, in writing, request that they be placed on a list of possible vendors or contractors for particular of specified goods or services which may be the subject of corporation procurement. The board may, by resolution, set a reasonable fee for inclusion on a list of

potential contractors or vendors and may charge a fee for delivery of copies of major, emergency or special RFP's. The board may provide for a procedure for removal of a business or person from the list of potential contractors or vendors.

D. Term of Procurement

A minor procurement contract shall not obligate the corporation for an initial term in excess of one year without the approval of the board. A contract may contain optional periods for extensions of the contract by the corporation, provided that any individual option period or extension shall not exceed one year in duration, and any individual option period or extension may become effective only upon the specific, affirmative exercise of the option or the specific, affirmative agreement to the extension, by the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:601 et seq.

HISTORICAL NOTE: Promulgated by the Louisiana Economic Development and Gaming Corporation, LR 19:

Max Chastain
Chairman

DECLARATION OF EMERGENCY

Department of Economic Development Office of Financial Institutions

Self-Help Repossession (LAC 10:V.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority granted under R.S. 6:966(J)(3)(e), the Department of Economic Development, Commissioner of Financial Institutions, hereby adopts the following Emergency Rule, effective April 19, 1993, to provide for the implementation of procedures for applications for, issuance of, renewal of, and revocation of a license as self-help repossession agency. This Emergency Rule is effective for the maximum period allowed by law or until the final Rule takes effect upon publication in the *Louisiana Register*, whichever occurs first.

TITLE 10

BANKS, CREDIT UNIONS, SAVINGS AND LOANS, UCC, AND CONSUMER CREDIT

Part V. Uniform Commercial Code

Chapter 7. Self-Help Repossession

Subchapter F. Self-Help Repossession Agencies

§701. Definitions

A. The following terms as used in this Rule shall have the following meaning:

Advertisement—any written or printed communication, including directory listing, except a free telephone directory listing which does not allow space for a license number.

Assignment—an authorization by the legal owner, lienholder, or lessor, or lessee to recover, or to collect money payment in lieu of recovery of, personal property, including, but not limited to, personal property registered under the Louisiana Vehicle Certificate of Title Law R.S. 32:701, et seq., which is subject to a security interest under Chapter 9 of

the Louisiana Commercial Laws, R.S. 10:9-101, et seq. or a chattel mortgage under R.S. 9:5351 et seq., R.S. 9:5367, et seq., or R.S. 32:701, et seq., as applicable. *Assignment* also means an authorization by the registered owner to recover personal property registered under the Louisiana Vehicle Certificate of Title Law where an employer-employee relationship exists or existed between the registered owner and the possessor of the property and the possessor is wrongfully in possession of the property.

Combustibles—any substances or articles that are capable of undergoing combustion or catching fire, or that are flammable, if retained.

Commissioner—the commissioner of Financial Institutions.

Dangerous Drugs—any controlled substances as defined in The Uniform Controlled Dangerous Substances Law, R.S. 40:961, et seq.

Deadly Weapon—any instrument or weapon of the kind commonly known as a blackjack, slingshot, bill, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or revolver, or any other firearm; any knife having a blade longer than five inches; any razor with an unguarded blade; and any metal pipe or bar used or intended to be used as a club.

Employee—a person registered under this Rule.

Health Hazard—any personal effect which if retained would produce an unsanitary or unhealthful condition.

Legal Owner—a person holding a security interest in personal property which has been sold, leased, or rented under a security agreement.

Licensee—an individual, partnership, or corporation licensed under this Rule as a repossession agency.

Office—the Office of Financial Institutions.

Person—any individual, partnership, or corporation.

Personal Effects—any property contained within repossessed personal property which is not the property of the legal owner and which has not been installed in or fixed to the personal property nor otherwise become a part thereof.

Personal Property—any vehicle, boat, recreational vehicle, motor home, appliance, or other property which is subject to a security interest or chattel mortgage.

Private Building—any dwelling, outbuilding, or other enclosed structure.

Secured Area—any fenced and locked area.

Security Agreement—an agreement which creates or provides for a security interest, as provided in Chapter 9 of the Louisiana Commercial Laws, R.S. 10:9-101, et seq.

Services—any duty or labor to be rendered by one person for another.

Violent Act—any act which results in bodily harm or injury to any party involved.

B. Repossession Agency

1. A *repossession agency* includes any person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property, including, but not limited to, personal property registered under the provisions of the Louisiana Vehicle Certificate of Title Law, R.S. 32:701, et seq., which has been sold under a security agreement, except for any person registered pursuant to §713.

2. A repossession agency shall not include any of the following:

a. any financial institution subject to the jurisdiction of the Commissioner of Financial Institutions of the State of Louisiana or the Comptroller of the Currency of the United States;

b. any person organized, chartered, holding a license or authorized to make loans pursuant to the laws of this state or the United States who is subject to supervision by the commissioner of Financial Institutions of this state or the United States;

c. the legal owner of personal property which is subject to a security interest;

d. a person employed exclusively and regularly by one employer in connection with the affairs of that employer only, and where there exists an employer-employee relationship.

D. Valid Repossession Agency License

No person shall engage within this state in the activities of a repossession agency (as defined in this Section) unless the person holds a valid repossession agency license or is exempt from licensure pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May, 1993).

§705. Violations/Violators

A. Any person who violates any provision of this Rule, or who conspires with another person to violate any provision of this Rule, or who knowingly engages a nonexempt unlicensed person to repossess personal property on its behalf, after being duly notified by the office in writing of the nonexempt unlicensed person's unlicensed status with the office, is guilty of a misdemeanor, and is punishable by a fine of \$5,000, or by imprisonment in the parish jail for not more than one year, or by both the fine and imprisonment.

B. Any Louisiana creditor who knowingly engages a nonexempt unlicensed person to repossess personal property on its behalf, after being duly notified by the office in writing of the nonexempt unlicensed person's unlicensed status with this office may be assessed a civil money penalty up to \$5,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§707. Repossession Agency License

A. Applications

1. An application for a repossession agency license shall be made in writing to, and filed with the office in the form that may be required by the commissioner and shall be accompanied by the original license fee prescribed by this Rule. The commissioner may require the submission of any other pertinent information, evidence, statements, or documents.

2. Every application for a repossession agency license shall state, among other things that may be required, the name of the applicant and the name under which the applicant will do business, the location by number and street and city of the office of the business for which the license is sought, and the usual business hours the business will maintain. The applicant's residence address, residence telephone number, social security number, date of birth, and driver's license

number, if requested, shall be confidential and shall not be released to the public.

3. No license shall be issued in any name which may be confused with or which is similar to any federal, state, parish, or municipal governmental function or agency, or in any name which may tend to describe any business function or enterprise not actually engaged in by the applicant, or in any name which is the same as or so similar to that of any existing licensee as would tend to deceive the public, or in any name which would otherwise tend to be deceptive or misleading.

B. Applicant

If the applicant for license is an individual, the application shall state the full residence address of the applicant and that the applicant is to be personally and actively in charge of the business for which the license is sought, or if any other qualified applicant is to be actively in charge of such business, the application shall so state and set forth the name of such person. The application shall also state whether the applicant has ever used an alias. The application shall be signed and notarized by the applicant and, if any other person is to be actively in charge of the business, the application shall also be signed and notarized by such person.

C. Applicant Copartners

If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the names of the partner to be actively in charge of the business for which the license is sought. If a qualified certificate holder other than a partner is to be actively in charge of the business then the application shall state the name and address of that person. The application shall be subscribed and verified by all the partners and, if any other person is to be actively in charge of the business, the application shall also be subscribed and verified by such person. The application shall also state whether any of the partners has ever used an alias.

D. Information on Application

If the applicant for license is a corporation, the application shall state the true names and complete residence addresses of all officers. The application shall also state the name and address of the person to be actively in charge of the business for which the license is sought. The application shall be subscribed and verified by a duly authorized officer of the applicant and by the qualified certificate holder thereof. The application shall also state whether any of the officers named therein has ever used an alias.

E. License Denial

1. If the commissioner determines that the applicant, if an individual, or if the applicant is a person other than an individual, that its manager and any of its officers and partners have committed any of the following acts, the commissioner may deny the license:

a. committed any act, which if committed by a licensee, would be a ground for the suspension or revocation of a license under this Rule;

b. committed any act evidencing dishonesty or fraud;

c. been refused a license under this Rule or had a license revoked;

d. been an officer, partner, or manager or any person who has been refused a license under this Rule or whose license has been revoked;

e. committed, or aided and abetted the commission of, any act for which a license is required by this Rule while unlicensed;

f. knowingly made any false statement in his or her application.

2. The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the commissioner, in writing, within 30 days of the issuance of the denial.

3. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this Rule. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest.

F. Pending Final Disposition

No license may be issued to any applicant pending final disposition of any disciplinary action by the commissioner previously filed against the person or applicant or against any partner or officer of the applicant.

G. The form and content of the license shall be determined by the commissioner.

H. License Display

Each repossession agency license or duplicate license, together with current renewal license, if any, shall at all times be conspicuously displayed at the place of business on record with the office.

I. Nontransferable

A repossession agency license issued under this Rule is not transferable.

J. Expired License

An expired license may be reinstated within one year of the date of expiration upon compliance with the provision of this rule, application by the licensee, and payment of any and all fines assessed by the commissioner and payment of the reinstatement fee provided by this rule. Reinstatement of an expired license shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this rule during the period the license is expired.

K. A suspended repossession agency license is subject to expiration and shall be renewed as provided herein, but renewal of the licensee does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

L. Revoked License

A revoked repossession agency license is subject to expiration as provided herein, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

M. Expired License

1. A repossession agency license which is not renewed within one year after its expiration may not be renewed, re-

stored, reinstated, or reissued thereafter.

2. The holder of the repossession agency license may obtain a new license only upon compliance with all of the provisions of this rule relating to the issuance of an original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§709. Repossession Agency

A. Qualifications

1. Except as otherwise provided in this Rule, an applicant for a repossession licensure shall comply with all of the following:

- a. be at least 18 years of age;
- b. have no felony convictions;
- c. be a Louisiana resident;

d. have been, for at least one year of lawful experience, during the five years preceding the date on which his or her application is filed, an employee of a licensed repossession agency who has worked with a licensed agent within this state or have had one year of lawful experience in recovering personal property subject to a security interest within this state. Lawful experience shall mean experience in recovering personal property subject to a security interest as a registrant pursuant to this Rule or as a salaried employee of any entity exempted by §701.B.2 or a vehicle dealer.

2. A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by the applicant with a licensed agent preceding the filing of an application.

3. An applicant shall substantiate the claimed hours of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the commissioner as he may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from persons other than employers substantiating employment for consideration by the commissioner.

4. An applicant who as of January 1, 1993, has engaged in the repossession business for at least the three previous years and is a member of any of the following organizations: National Finance Adjustors, Inc., Allied Finance Adjusters Conference, Inc., Time Adjusters Conference, Inc. and American Recovery Association, Inc. shall not be required to comply with the experience requirements or subsequent verification thereof enumerated previously but may be licensed on the basis of the experience and membership within the listed organizations.

5. Complete and forward to the office a qualified certificate holder application which shall be on a form prescribed by the commissioner. The applicant's residence address, residence telephone number, social security number, date of birth, and driver's license number, if requested, shall be confidential and shall not be released to the public.

6. Post a bond in the aggregate amount of \$100,000. The bond shall be filed with the Office of

Financial Institutions or the applicant may file proof satisfactory to the commissioner that he is bonded under his membership in one or more of the organizations previously enumerated in an amount at least equal to \$100,000. Should a licensee ever become disassociated from one of the organizations, then he must post the appropriate bond with the Office of Financial Institutions.

7. Pay the required application fees to the office.

B. Qualification Certificate Refusal

1. The commissioner may refuse to issue a qualification certificate, or may suspend or revoke a previously issued qualification certificate, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this Rule.

2. The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the commissioner within 30 days of the issuance of the denial.

3. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this Rule. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May, 1993).

§711. Repossession Agency (Generally)

A. Locations

1. A licensee desiring to operate a repossession business at a location other than the address shown on his or her license shall apply and qualify for a license for each additional location. A licensee desiring to operate a repossession business under one or more trade styles shall apply and qualify for a license for each trade style. No licensee shall indicate, or cause to be indicated, in any printed matter, or in any directory or listing, that he or she conducts a repossession business under any name, or at any address, other than the names and addresses for which he or she is licensed.

2. An application for a license for an additional location or an additional trade style shall be in the same form, and the applicant shall meet the same requirements, as for an original license.

B. Management

Every office licensed as a repossession agency shall be under the active charge of a qualified certificate holder.

C. Management Replacements

1. Whenever a qualified certificate holder actively in charge of an office ceases to be in charge, the licensee shall file with the office notice, in writing, within 30 days from such cessation.

a. If the notice is filed, the license shall remain in force for a period of 90 days after the filing of the notice. At the end of the 90-day period or an additional period, not to exceed one year, as specified by the commissioner, if written

notice is not given that a qualified person is then actively in charge of the office, the agency licensee shall be automatically suspended.

b. A license suspended under this Section may be reinstated upon payment of the reinstatement fee and submission of a reinstatement application.

c. A person who performs any act for which a repossession agency license is required during the period of suspension is subject to appropriate action by the commissioner as enumerated in this Rule.

2. In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for 120 days following the death of the licensee, provided that written notice is made to the office within 30 days following the death of the licensee. At the end of the 120-day period, the license shall be automatically canceled. If no request is received within the 30-day period, the license shall be automatically canceled at the end of that period.

3. In the case of the death or disassociation of a partner of an entity licensed as a partnership, the licensee shall notify the office, in writing, within 30 days from the death or disassociation of the individual. If notice is given, the licensee shall remain in force for 90 days following the death or disassociation. At the end of that period, the license shall be automatically canceled. If the licensee fails to notify the office within the 30-day period, the license shall be automatically canceled at the end of that period.

4. A license extended under this Section is subject to all other provisions of this Rule.

D. License Revocation

Except as herein otherwise provided, no person shall be in charge of any licensed office if the person has ever had a license revoked or suspended or has ever been denied registration pursuant to §713 or if the person was a partner, managing employee, or officer of a repossession agency the license of which has been revoked for cause.

E. Officers

The person deemed to be actively in charge of an officer shall be the holder of a qualification certificate and the certificate, together with the current renewal certificate, shall be prominently displayed below the repossession agency's license. The person shall spend over 51 percent of the usual business hours in the conduct of the business at the licensed location. The person shall share equally with the licensee the responsibility for the conduct of the business and the personnel of the licensed agency. This Section shall not apply to any licensee who notifies the office in writing that the licensee is not conducting any business, but wishes to maintain a current license status with the office. When the licensee resumes conducting business, the licensee shall so inform the office in writing within 30 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§713. Registration

A. Definitions. As used in this Section:

Licensee—a repossession agency licensed under this Rule.

Multiple Licensee—a repossession agency holding more than one repossession license under this Rule, with one trade style and ownership, conducting repossession business from additional licensed locations other than the location shown on the original license.

Repossessor Employee—a person employed by a licensee or multiple licensee registered with the commissioner as provided in this Section.

B. Initial Registration/Reregistration

Except as otherwise provided in this Section every person entering the employ of a licensee or multiple licensee after the effective date of this Section shall immediately complete an application for an initial registration or a reregistration and shall file the appropriate application with the commissioner within 15 working days after the commencement of employment for the licensee or multiple licensee for whom the applicant is employed. Applicants for registration must be at least 18 years of age.

a. An initial registration application shall be required of those persons who have not previously submitted an application for, or been registered as, a reposessor employee.

b. A reregistration application shall be required of those persons who have previously submitted or been registered as a reposessor employee.

c. No registered employee of a multiple licensee shall be required to file more than one application for registration or reregistration for each multiple licensee.

C. Application Fees

The application for an initial registration or a reregistration under this Section shall be on a form prescribed by the commissioner and shall be accompanied by the fee provided for in §721.

D. Application Information

All information obtained on the application shall be confidential and shall not be released to the public except for the registrant's full name, employer's name and address, and the registration number. The application shall be verified and shall include:

a. the full name, residence address, residence telephone number, date and place of birth, social security number, and driver's license number of the employee;

b. a statement listing any and all names used by the employee, other than the name by which he or she is currently known. If the employee has never used a name other than his or her true name, this fact shall be set forth in the statement;

c. the name and address of the employer and the date the employment commenced;

d. the title of the position occupied by the employee and a description of his or her duties.

E. Registration Exceptions

Qualified certificate holders who comply with other provisions of this Rule are not required to register under this Section.

F. Nonrepossessors in Office

Employees of a licensee who are engaged exclusively in stenographic, typing, filing, clerical, in-office skiptracing, or other activities, which do not constitute the work of a reposessor as described in §701.B.1, are not required to

register under this Section.

G. Registration Refusal

1. The commissioner may refuse to register any employee if the individual has failed to pay any or all fines assessed pursuant to any applicable Section of this Rule and not resolved in accordance with that Section, or has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this Rule, or has committed acts or crimes constituting grounds for denial of a license.

a. The denial shall be in writing and shall describe the basis for the denial. The denial shall inform the applicant that if he or she desires a hearing to contest the denial, the hearing shall be requested of the commissioner, in writing, within 30 days of the issuance of the denial.

b. The commissioner may, in his discretion, conduct such investigations and hearings as he deems necessary to ascertain possible violations of this Rule. Such hearings shall be private unless the commissioner, in his sole discretion and after considering the views of the person afforded the hearing, determines that a public hearing is necessary to protect the public interest.

2. The commissioner may suspend or revoke a registration if the registrant has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license or for the suspension or revocation of a license under this Rule.

H. Renewal

1. At least 60 days prior to the expiration of each registration, the office shall mail a renewal form to the registrant at the licensee's place of business. A registrant who desires to renew his or her registration shall forward to the office for each registration the properly completed renewal form obtained from the office, with the renewal fee prescribed by this Rule, for renewal of his or her registration. If the properly completed renewal form with the renewal fee is not received by January 31 then a penalty fee for renewal shall be assessed.

2. A licensee shall provide to his or her employees information regarding procedures for renewal of registration.

3. A registration that is not renewed within one year of its expiration may not be renewed. The renewal fee for a renewal after expiration shall be the same as a renewal fee and any applicable penalties. Registrants working with expired registrations shall pay all accrued fees and penalties prior to renewal or reregistration.

4. Upon renewal, evidence of renewal, as the commissioner may prescribe, shall be issued to the registrant. If evidence of renewal has not been delivered to the registrant prior to the date of expiration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 60 days after the date of expiration.

5. A registration shall not be renewed until any and all fines assessed pursuant to this Rule and not resolved in accordance with this Rule have been paid.

I. Validity

1. Each registration is valid until the registrant ceases employment with a licensee or until the registration expires.

2. Each person registered under this Section shall notify the commissioner, in writing, within 30 days of any change in employment with a licensee. If the person ceases to be employed by a licensee, the licensee shall notify the commissioner, in writing, within 30 days. If at some subsequent time the person is again employed by a licensee, he or she shall apply for reregistration in the manner provided in this Section.

3. Each employee while registered shall notify the commissioner, in writing, within 30 days after any change in his or her residence address.

J. Registration Responsibility

1. The licensee shall at all times be responsible for ascertaining that his or her employees subject to registration are currently registered or have made proper application for registration as provided in this Section. The licensee may not have in his or her employment a person subject to registration who has not registered within the time required or whose registration has expired, been revoked, been denied, been suspended, or been canceled.

2. The office shall keep current and accurate records of all persons registered under this Section.

K. Suspension

If the commissioner determines that continued employment of an applicant for registration in his or her current capacity may present undue hazard to public safety, the licensee, upon proper notification from the commissioner, shall suspend the applicant from employment in that capacity until the licensee is notified in writing by the commissioner within 60 days from the date of notification of suspension that the applicant's registration has been approved or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§715. Conduct of Business

A. A licensee shall, within 30 days after such change, notify the office of any change of its corporate officers. Applications, on forms prescribed by the commissioner, shall be submitted by all new officers. The commissioner may suspend or revoke a license issued under this Rule if the commissioner determines that at the time the person became an officer of a licensee, any of the facts stated in §707.F existed.

B. Address

A licensee or a qualified certificate holder shall, within 30 days after such change, notify the office of any change of his or her address. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

C. Licensee Responsibilities

1. A licensee shall at all times be responsible for those actions of his or her employees, including his or her manager, performed in violation of this Rule when acting within the course and scope of his or her employment.

2. Each licensee shall maintain a file or record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment

when an employee is terminated. The file and records, together with usual payroll records, shall be available for inspection by the office, and copies thereof, and information pertaining thereto or contained therein, shall be submitted to the office upon request.

D. Records

A repossession agency shall be required to keep and maintain adequate records of all transactions, including, but not limited to, assignment forms; vehicle condition reports, including odometer readings; personal property inventory; notice of seizure; and records of all transactions pertaining to the sale of personal property which has been repossessed, including, but not limited to, bids solicited and received, cash received, remittances to the seller, and allocation of any moneys not so remitted to appropriate ledger accounts. Records shall be retained for a period of not less than four years and shall be available for examination by the office upon demand. In addition, personal property and personal effects storage areas shall be made accessible for inspection by the office upon demand.

E. Incurred Services

No charge shall be made for services incurred in connection with the recovery, transportation, and storage of personal property, including repair work, except under terms agreed to in writing by the responsible party at the time of the repossession authorization or specifically agreed upon at a subsequent time.

F. Acts of Violence

Within seven days after a violent act has occurred involving a licensee, or any officer, partner, qualified certificate holder, or employee of a licensee, while acting within the course and scope of his or her employment, which results in a police report or bodily harm or bodily injury, the licensee or the licensee's qualified certificate holder or the licensee's employee, shall mail or deliver to the commissioner a notice concerning the incident upon a form provided by the office.

G. Final Civil Court Judgment

Within seven days after receiving a final civil court judgment filed against the licensee or any officer, partner, qualified certificate holder, or employee of a licensee, for an amount of more than the then prevailing maximum claim that may be brought in a small claims court pertaining to an act done within the course and scope of his or her employment, the licensee, or his or her qualified certificate holder, or his or her employee, shall mail or deliver to the commissioner a copy of the judgment.

H. Advertisement

Every advertisement by a licensee, soliciting or advertising business, shall contain the licensee's name, address, and license number as they appear in the records of the office.

I. Personal Effects

1. If personal effects or other personal property not covered by a security agreement, are contained in or on personal property at the time it is recovered, the effects shall be removed from the property subject to the security interest, a complete and accurate inventory shall be made, and the personal effects shall be stored in a labeled container by the licensee at the location of the licensed agency as reflected in

the records of the office for a minimum of 60 days in a secure manner, except those personal effects removed by or in the presence of the registered owner at the time the personal property was being repossessed.

2. The following items of personal effects are items determined to present a danger or health hazard when recovered by the licensee and shall be disposed of in the following manner:

a. deadly weapons and dangerous drugs shall be turned over to a local law enforcement agency for retention. These items shall be entered on the inventory and a notation shall be made as to the date and the time and the place the deadly weapon or dangerous drug was turned over to the law enforcement agency, and a receipt from the law enforcement agency shall be maintained in the records of the repossession agency;

b. combustibles shall be inventoried and noted as "disposed of, dangerous combustible," and the item shall be disposed of in a reasonable and safe manner;

c. food and other health hazard items shall be inventoried and noted as "disposed of, health hazard," and disposed of in a reasonable and safe manner.

3. The inventory shall be in writing, shall state the date and time that it was made, shall include the name, address, business hours, and phone number of the person at the repossession agency to contact for recovering the personal effects and an itemization of all personal effect storage charges that will be made by the repossession agency and shall be signed by the repossession agency employee who performs the inventory.

4. The owner of the personal property shall have 48 hours in which to contact the seizing creditor and demand the return of his property. The inventory shall be provided to a creditor not later than 48 hours after the recovery of personal property, except that if:

a. the 48-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 72 hours after the recovery of personal property;

b. the 48-hour period encompasses a Saturday or Sunday, and a postal holiday, the inventory shall be provided no later than 96 hours after the recovery of personal property;

c. inventory resulting from repossession of a motor home or travel trailer is such that it shall take at least four hours to inventory, then the inventory shall be provided no later than 96 hours after the recovery of personal property. When the 96-hour period encompasses a Saturday, Sunday, or postal holiday, the inventory shall be provided no later than 120 hours after the recovery of personal property.

J. Written Reports

Any written report to a client shall be submitted by the licensee, the qualified certificate holder, or a person authorized by one or either of them, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct.

K. Tow Vehicles

1. In the event a two-ton wrecker or tow vehicle is required to be used in the repossession, all Louisiana regulatory acts pertaining to said vehicles shall be adhered

to. *Two-Ton Wrecker or Tow Vehicle* means any motor vehicle equipped with a boom or booms, winches slings, tilt beds, and/or similar equipment designed for the towing and/or recovery of vehicles and other objects which cannot operate under their own power or for some reason must be transported by means of towing. In addition, the owner of the tow vehicle and the operator shall be responsible for all personal effects located inside the seized collateral.

2. However, no two-ton licensed wrecker or tow vehicle service can be used without a representative of the repossession agency being present at the time of the repossession of the personal property and who shall remain present until the personal property has been secured and an inventory performed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(I)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§717. Prohibited Acts

A. Fines

The commissioner may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrants for any of the prohibited acts outlined in this Section.

B. Administrative Fines

The commissioner may assess administrative fines for the following prohibited acts:

a. knowingly making any false report to his or her employer or client for whom information was being obtained. The fine shall be \$100 for the first violation, and \$500 for each violation thereafter;

b. using an alias in connection with the official activities of the licensee's business. A notice of warning shall be issued for the first violation. Thereafter the fine shall be \$500 for each violation;

c. appearing as an assignee party in any court proceeding involving claim and delivery, or other possessory court action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien. This Section shall not prohibit a licensee from appearing as a defendant in any of the preceding actions. The fine shall be \$100 for each violation.

C. Fines Regarding Property

The commissioner may assess administrative fines for any of the following prohibited acts:

a. recovering personal property or making any money demand in lieu thereof, including, but not limited to, personal property registered under the Louisiana Vehicle Certificate of Title Law, which has been sold without authorization from the legal owner, lienholder, or lessor of the personal property. A telephonic assignment is acceptable if the legal owner, lienholder, or lessor is known to the licensee and a written authorization from the legal owner, lienholder, or lessor is received by the licensee within 10 working days or a request by the licensee for a written authorization from the legal owner, lienholder, or lessor is made in writing within 10 working days. Referrals of assignments from one licensee to another licensee with confirmation to the legal owner, lienholder, or lessor informing the legal owner, lienholder, or

lessor of the name, address, and license number of the licensee to whom the referral was made are acceptable. The referral of an assignment shall be made under the same terms and conditions as in the original assignment. The fine shall be \$100 for each of the first five violations and \$500 for each violation thereafter, per audit;

b. using personal property or personal effects, which have been recovered, for the personal benefit of a licensee, or officer, partner, manager, or employee of a licensee. The fine shall be \$100 for the first violation and \$500 for each violation thereafter. This Subparagraph does not apply to personal effects disposed of pursuant to §715.I;

c. selling personal property recovered under the provisions of this Rule, except with written authorization from the legal owner or mortgagee thereof or holder of a security interest therein. The fine shall be \$100 for the first violation and \$500 for each violation thereafter, per audit;

d. failing to remit all money due clients within 10 business days after finalization of the sale of personal property. The fine shall be \$250 for the first violation and \$1,000 for each violation thereafter. For purposes of this Subparagraph, *finalization of sale* means the time when the documents of title or ownership which permit transfer of title from the legal owner to the purchaser are received by the repossession agency;

e. failing to remit moneys collected in lieu of repossession or redemption to a client within 10 working days after receipt of the moneys. The fine shall be \$250 for the first violation and \$1,000 for each violation thereafter;

f. failing to deliver to a client any negotiable instrument received by the licensee made payable to the client within 10 working days of receipt of the negotiable instrument. No licensee, manager, or employee of a licensee shall accept a negotiable instrument made payable to a client unless they have authorization from the client to accept such a negotiable instrument. The fine shall be \$250 for the first violation and \$1,000 for each violation thereafter;

g. unlawfully entering any private building or secured area without the consent of the owner, or of the person in legal possession thereof, at the time of repossession. The fine shall be \$500 for each violation;

h. committing unlawful assault or battery on another person. The fine shall be \$500 for each violation;

i. falsification or alteration of an inventory. The fine shall be \$25 for each violation.

D. False or Misleading Information Fines

A licensee, or any of his or her employees, or qualified certificate holder shall be prohibited from using any false or misleading representation during the course of recovery of personal property and may be issued a notice of warning for the first violation; assessed a \$100 fine for the second violation; and assessed a \$500 fine for any subsequent violation of any of the following:

a. the false representation or implication that the individual is vouched for, bonded by, or affiliated with the United States or with any state, parish, city or city and parish, including the use of any badge, uniform, or facsimile thereof;

b. the false representation or implication that any individual is an attorney or that any communication is from an

attorney;

c. the representation or implication by a repossession agency or its employees that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless such action is lawful and the creditor has instructed the repossession agency to inform the consumer that the creditor intends to take the action;

d. the threat to take any action that cannot legally be taken or that is not intended to be taken;

e. the false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer;

f. the use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any state, or which creates a false impression as to its source, authorization, or approval;

g. failure to disclose clearly in all communications made with the consumer to collect a debt or to obtain information about the consumer, that the repossession agency is attempting to collect a debt and that any information obtained will be used for that purpose;

h. the false representation or implication that documents are legal process;

i. the use of any business, company, or organization name other than the true name of the repossession agency's business, company or organization;

j. the use of any deceptive forms.

E. License Fines

The commissioner may assess administrative fines for any of the following prohibited acts:

a. conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued or conducting a business as an individual, partnership, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, or corporation. The fine shall be \$1,000 for each violation;

b. aiding or abetting an unlicensed reposessor or transferring his or her license. *Transferring his or her license* means that no licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this Rule. The fine shall be \$1,000 for each violation;

c. failing to register employees within 15 days. The fine shall be \$100 for each of the first two violations and \$500 for each violation thereafter, per audit;

d. employing a reposessor employee whose registration has expired, been revoked, been denied, been suspended, or been canceled, if the office has furnished a listing of such employees to the licensee. The fine shall be \$500 for each violation;

e. failing to notify the office, within 30 days, of any change in officers. A notice of warning shall be issued for the first violation. Thereafter the fine shall be \$100 for each violation;

f. failing to present the debtor with an itemized receipt of payment, if payment is made in lieu of repossession. The fine shall be \$100 for the first violation and \$500 for each violation thereafter;

g. failing to submit a notice regarding a violent act within seven days pursuant to §715.F or to submit a copy of a judgment awarded against the licensee for an amount of more than \$500 within seven days pursuant to §715.G. The fine shall be \$100 for the first violation and \$500 per violation thereafter;

h. failing to include the licensee's name, address and license number in any advertisement. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be \$100 for each violation;

i. failing to maintain personal effects for at least 60 days. The fine shall be \$100 for the first violation and \$500 for each violation thereafter.

F. Employee Fines

The commissioner may assess administrative fines against a repossession agency employee for the following acts, in addition to those imposed pursuant to any other Subparagraph in this Section. The fine shall be \$100 for each of the following violations:

a. knowingly submitting a false report to his or her employer;

b. submitting a report to a client without authorization by his or her employer;

c. failing to register.

G. Miscellaneous Fines

The commissioner may assess administrative fines against any repossession agency licensee, qualified certificate holder, or registrant for failure to notify the office within 30 days of any change of residence or business address. The fine shall be \$100 for each violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§719. Disciplinary Proceedings

A. Actions

The commissioner may suspend or revoke a repossession agency license, a qualification certificate, or registration issued under this Rule if the commissioner determines that the licensee or the licensee's manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, partners, employees, or its manager has:

a. made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license;

b. violated any provisions of this Rule;

c. violated any Rule of the commissioner adopted pursuant to authority contained in this Rule;

d. been convicted of a felony or any crime substantially related to the repossession agency business including illegally using, carrying, or possessing a deadly weapon;

e. committed or permitted any employee to commit any act while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the

denial of an application for a license;

f. unlawfully committed assault, battery, or kidnapping, or used force or violence on any person;

g. knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee;

h. been convicted of a violation for resisting or obstructing a police officer;

i. committed any act which is a ground for denial of an application for license under this Rule;

j. committed any act in the course of the licensee's business constituting dishonesty or fraud, including, but not limited to:

i. knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a defamatory statement in the course of business;

ii. using illegal means in the collection or attempted collection of a debt or obligation.

B. Conviction

1. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

2. A plea or verdict of guilty or a conviction following a plea of nolo contendere shall be sufficient grounds for denial, revocation or suspension of a license or for other sanction provided by this Section. The commissioner may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions LR 19: (May 1993).

§721. Fees

The fees prescribed by this Rule are as follows:

1. the application fee for an original repossession agency license is \$750;

2. the application fee for an original qualification certificate is \$250;

3. the renewal fee for a repossession agency license is \$450 annually;

4. the renewal fee for a license as a qualified certificate holder is \$200 annually;

5. the reinstatement fee for a repossession agency license required pursuant to §707.L and §711.C is the amount equal to the renewal fee plus a penalty of 50 percent;

6. the reinstatement fee for a license as a qualified certificate holder required pursuant to §707.L is the amount equal to the renewal fee plus a penalty of 50 percent;

7. an initial repossession employee registration fee is \$75, a repossession employee reregistration fee is \$50, and a repossession employee annual renewal fee is \$50 per registration. Notwithstanding, the reregistration fee for a repossession employee whose registration expired more than one year prior to the filing of the application for reregistration shall be \$75;

8. the commissioner shall furnish one copy of any issue or edition of the licensing law and rules and regulations to any applicant or licensee without charge. The commissioner shall charge and collect a fee to cover costs and handling for each additional copy which may be furnished on request to any applicant or licensee, and for each copy furnished on request to any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:966(J)(3)(e).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (May 1993).

Larry L. Murray
Commissioner

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 741 - Handbook for School Administrators

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and approved for advertisement as an emergency rule and a notice of intent, an amendment to Bulletin 741, Louisiana Handbook for School Administrators to require a one-half unit of health education as a required credit for graduation.

The board also referred this amendment to the Parish Superintendents Advisory Council for recommendations on implementing the proposed amendment to high school graduation requirements.

Emergency adoption is necessary in order to allow the department and local school systems to prepare for implementation. Effective date of this emergency rule is April 22, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 746 - Speech, Language and Hearing Specialist Certificate

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, the addition of a restricted certificate for speech, language, and hearing specialist in Bulletin 746, Louisiana Standards for State Certification of School Personnel as stated below.

TYPES OF CERTIFICATES FOR SPEECH,
LANGUAGE, AND HEARING SPECIALISTS

Type C

(Effective for all entering freshmen, fall semester of 1985)

A Type C certificate is based upon completion of an educational training program, approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders) with credits distributed as hereinafter provided, including general, professional and specialized academic education, and a master's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders).

***Restricted Type C**

A restricted Type C certificate, valid for one year, is based upon completion of an educational training program, approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders) with credits distributed as hereinafter provided, including general, professional and specialized academic education and a bachelor's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders). The certificate may be renewed four times under the following conditions:

** a. six semester hours toward completion of a master's degree in disorders of communication (speech, language, and hearing disorders and severe language disorders) are earned each year; and

b. direct supervision is provided by a certified and licensed speech, language and hearing specialist.

*Tenure cannot be awarded until a standard Type C certificate is issued.

**This policy may not be appealed.

* * *

All speech, language, and hearing specialists certified prior to the fall semester, 1990, will be governed by the following provisions:

Level I

A Level I certificate is issued to an individual who earns a baccalaureate degree including completion of an educational training program approved by the State Board of Elementary and Secondary Education, in disorders of communication (speech, language, and hearing disorders and severe language disorders), with credits distributed as hereinafter provided, including general, professional, and specialized academic education areas. Certification at this level requires direct supervision.

Emergency adoption is necessary in order to allow local school systems to employ speech, language, and hearing specialists. A critical shortage currently exists in this certification. The effective date of this emergency rule is April 22, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1508 - Pupil Appraisal Handbook

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, revised Bulletin 1508, Pupil Appraisal Handbook.

Bulletin 1508 is a guide for the conduct of pupil appraisal services. It includes procedures, standards, and criteria for identifying children eligible for special education and/or related services. Bulletin 1508 may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, State Department of Education; and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Emergency adoption is necessary since the bulletin must be submitted to the United States Department of Education by May 3, 1993 in order for the federal funds to be received by July 1, 1993. The effective date of this emergency rule is July 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1573 - Complaint Management

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, revised Bulletin 1573, Complaint Management Procedures.

Bulletin 1573 contains procedures, rules, and regulations controlling public complaints about the delivery of special education services. Bulletin 1573 may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, State Department of Education, and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Emergency adoption is necessary since the bulletin must be submitted to the United States Department of Education by May 3, 1993 in order for the federal funds to be received by July 1, 1993.

Effective date of this emergency rule is July 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706 - Exceptional Children

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, revised Bulletin 1706, Regulations for Implementation of the Exceptional Children's Act.

Bulletin 1706 contains statewide rules and regulations enforcing the requirements of state and federal laws which assure a free, appropriate public education to all exceptional children, ages 3 through 21 years. Responsibilities of state and local public and nonpublic educational agencies are given. Bulletin 1706 may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, State Department of Education; and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Emergency adoption is necessary since the bulletin must be submitted to the United States Department of Education by May 3, 1993, in order for the federal funds to be received by July 1, 1993. Effective date of this emergency rule is July 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1794 - Textbook Adoption Standards

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, the proposed changes in the Textbook Program. This is an amendment to Bulletin 1794, Textbook Adoption Standards and Procedures as stated below.

- I. The Louisiana Adoption Cycle is revised as follows:

1993	1994	1995	1996	1997	1998	1999	2000
Reading	Vocational Agricultural	Science K-12	Foreign Language	Math K-12	Social Studies K-12	Language Arts K-8	Language Arts 9-12
Special Ed.	Business	Health and Physical Education	Handwriting Education	Computer Science Music/Fine Arts	Special Ed Special Ed	Special Ed	Special Ed
	Home Economics	Special Ed	Special Ed				
Computer Literacy	Special Ed	Computer Literacy		Computer Literacy		Computer Literacy	

*Last Year for Reading

*Special Education materials are adopted each year in the area of the adoption disciplines.

II. State adoptions shall be limited to Basal Textbook, Teacher Edition, and Teachers Resource Binder only. Successful publishers will be allowed to add any ancillary materials that accompany their basal program after BESE approval. Ancillary material cost will be fixed for the period of the contract (seven years).

III. State Textbook Adoption Committee shall consist of 14 members (voting members):

a. Eight Curriculum Supervisors. The eight curriculum supervisors shall be recommended by city/parish superintendents (one from each of the governor's planning districts, with at least one being a special education supervisor).

b. One Non-public Parochial Educator. The one non-public parochial educator shall be recommended by the diocese superintendent.

c. One Non-public Private Educator. The one non-public private educator shall be recommended by the non-public school commission.

d. Four non-educators. The four non-educators shall be recommended by the members of BESE.

IV. State Textbook Adoption Sub-Committee (non-voting members):

Each of the eight curriculum supervisors and two non-public educators (one parochial and one private) on the State Textbook Adoption Committee shall have a subcommittee at the local level. This subcommittee shall: (1) be composed of a minimum of five teachers (at least one of whom shall be a special education teacher), and (2) assist in the evaluation of materials presented to the state committee. Each of the non-educators (four members of the State Textbook Adoption Committee) may also choose to have a subcommittee to assist them.

V. That the local school system be required to follow this ordering cycle when placing textbook orders with the publishers/depository to be paid for with the state textbook allocation:

1. March 15 - April 15: All textbooks currently adopted;
2. April 15- May 15: Newly adopted textbooks;
3. September 15 - October 15: Any adopted textbooks.

School systems may place orders in advance of the starting dates of each cycle.

VI. That local school systems be required to provide to the Bureau of Special Projects, a plan of implementation for the purchase of textbooks each year. That this plan shall be submitted prior to March 15 for currently-adopted materials that will be ordered for the upcoming school year and prior to April 15 for newly adopted materials that will be ordered for the upcoming school year.

VII. That the publisher/depository, centrally located in the state, be required to immediately notify the publisher when inventory level is not sufficient to meet the demands of orders on hand and that the publisher shall be required to immediately ship the appropriate quantity needed to fill all outstanding orders.

VIII. That all publishers with materials that are not under definite contract be required to amend their contract to provide a definite period to coincide with the next adoption cycle in that discipline. (This would assure that for all materials under

contract, parishes would know exactly when they would not be available, therefore, avoiding titles being canceled within the adoption cycle.)

IX. That the publisher under contract with the state of Louisiana be required to pay a fine of one percent of the outstanding balance for all orders placed with that publisher by local schools within the ordering cycle that have not been received within 90 days after the closing date of that cycle.

X. In order to obtain the greatest utility from out-of-use textbooks and to protect the environment, the following options shall be available to the parishes. Authorization to donate or sell textbooks that have been out-of-use parish-wide for six months or longer shall be given to the local school district by the State Department of Education. Such books may be donated to any public hospital, any jail or prison or any public institution, or any individual for private use. All books that have not been donated or sold will be sold to the debinding company contracted by the state according to the following procedures.

Procedures for Disposal

1. The State Department of Education will contract with a debinding company by December 1 of each year and notifying the parishes of the awarding of the contract.

2. Each system shall determine which titles are eligible for disposal.

3. The list of the disciplines, publishers and copyright dates will be forwarded to the SDE by December 15. By January 15, the SDE will distribute the list to all school systems and each diocese. All local school systems shall notify the approved non-public schools of available titles.

4. The local superintendent or his designee may request titles from another system to be transferred at the requesting system's expense before March 15.

5. Local systems shall notify the SDE of the need for pick-up by the debinder by March 20.

6. By April 1, the SDE will establish a schedule for pick-up at one site in each school system during the month of April.

7. The local school system shall maintain appropriate records on the above procedure for three years. The local system shall derive all funds from the debinding.

XI. Escalation Clause. Because many school systems have just recently completed implementing their reading adoption and because a change to a new reading series for them would not be financially feasible, the following option shall be available to the parishes: parishes wishing to remain in their current reading series will be allowed to go through the next adoption cycle (1993-2000). Publishers with reading series that parishes will be rolling over into, will be allowed to keep their reading series on the state approved list through the next adoption cycle (1993-2000) at a set escalation price.

XII. Special Waiver. A local school system with the approval of its board, may petition in writing the State Department of Education for permission to spend in excess of the 10 percent allowance for non-adopted state textbooks. The Bureau of Special Projects will present the petition to BESE for action, and notify systems of the results. Request shall be made only during the month of February.

XIII. Local Adoption Procedures

Purpose

A structured local selection process is integral to the policies and procedures defined for state textbook adoption. The purpose of the local adoption process is as follows:

1. to assure local public and non-public school systems of establishing a defined procedure/guidelines for textbook adoption;
2. to provide an opportunity for teacher input in textbook selection;
3. to ensure curriculum content that reflects current national, state, and local standards of instruction.

Procedure

Each local school system will hold a formal textbook adoption. The local textbook adoption process focuses on those textbooks selected at the state level. After state committee textbook recommendations are approved by the Board of Elementary and Secondary Education, the list of state approved textbooks will then be sent to local school systems within 30 days of state board approval. Said list should contain all cost items included with the basal text, supplementary materials, etc., as well as all items to be given at no cost to local school systems.

Local procedures must address the following:

1. Establishment of Timelines
 - a. Participation in state caravan must occur before February 1 in the school year of the adoption.
 - b. Local school systems must hold textbook adoption between February 1 and April 15 in the school year of the state adoption.
 - c. The state office of educational support must be notified as to the locally adopted textbooks and the school system's plan for implementation by April 15 in the school year of the adoption.
2. Committee Selection
 - a. The local adoption committee will be composed of administrators, teachers (at least one of whom should be special education), parents and/or community representatives with equitable representation by ethnic origin, gender, etc. reflective of the student constituency.
 - b. Committee members are to receive special training in textbook selection criteria, voting procedure and integrity of interaction with publishers.
3. State Textbook Caravan Participation
 - a. The caravan affords all school systems an equal opportunity to preview all state adopted textbooks and supplementary materials with on-site availability of publishers to answer questions.
 - b. All school systems, public, private and parochial, are eligible to participate in the caravan.
4. Local Hearings
 - a. Local school systems may use state caravan as the single opportunity for publishers' presentations.
 - b. Local school systems may use state caravan as vehicle for identifying those publishers to be called back for local presentations.
 - c. Only one call back of publishers will be permitted at the local level.
 - d. Call backs will only be allowed for clarification

pending availability of publisher's consultant(s).

- e. No call backs are permitted before February 1.
 - f. Publishers to be called back must be notified no later than February 15.
5. Sampling
- a. Publishers are to furnish examination copies only at the written request of the local school system textbook adoption coordinator.
 - b. Samples are to be limited to sufficient quantities to facilitate the designated local adoption committee members only.
 - c. Other persons choosing to examine samples must use samples provided by state department at predesignated sites for public review.
 - d. No other examination copies will be permitted.
 - e. Publishers must notify local school systems, in writing, of need to have samples returned.
 - f. If notified by publishers, all samples received by local school systems must be picked up by the publisher within 30 days after the local adoption.
 - g. Publishers must make all necessary arrangements for sample returns at publisher's expense.

6. Local Selection of Textbooks

- a. An objective evaluation instrument incorporating a numerical rating system must be utilized.
- b. An official summary report of the evaluation results is to be kept on file for a minimum of three years.

7. Notifying State of Local Textbook Selections

- a. The state department must be notified of all text titles selected by discipline/course.
- b. Said notification must be accompanied by the school system's plan for implementation of texts.
- c. The total plan for implementation must be submitted. This plan must address the number of books to be ordered by subject, course, and grade level. If monies prevent total implementation during the school year following the adoption, the plan for remaining implementation in future years must also be indicated.

d. Said notifications must be made by April 15 in the school year of the state adoption.

8. Notifying Schools of Local Selected Textbooks

- a. Each school will receive a list of all components of the basal, including those items purchasable with textbook funds and those items to be supplied by the publishers at no cost.
- b. Local school systems may share with each school a list of the strengths and weakness of all textbooks selected.

Emergency adoption is necessary in order for the revisions to be implemented for the 1993 state reading adoption.

The effective date of this emergency rule is April 22, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1921—Special Education Program Plan and
Bulletin 1927—Preschool Grant Application

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, Bulletin 1921, Louisiana Annual Special Education Program Plan (IDEA-B) for FY94-96, and Bulletin 1927, Preschool Grant Application.

The Louisiana Annual Special Education Program Plan (IDEA-B) and the Preschool Grant Application may be seen in their entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex Building, 1051 North Third Street, Baton Rouge, LA; the Office of Special Educational Services, State Department of Education; and in the Office of the State Board of Elementary and Secondary Education located in the Education Building in Baton Rouge, LA.

Emergency adoption is necessary since the plan and application must be submitted to the United States Department of Education by May 3, 1993 in order for the federal funds to be received by July 1, 1993.

Effective date of this emergency rule is July 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1922 - Compliance Monitoring

The State Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and adopted as an emergency rule, Bulletin 1922, Compliance Monitoring Procedures.

The Louisiana Department of Education has the responsibility to ensure that each participating agency in the state is in compliance with all applicable federal and state laws, regulations and standards related to the provision of a free and appropriate public education for all exceptional children for whom each is legally responsible. To fulfill this responsibility, the SDE has established procedures which provide ongoing monitoring of policies and procedures, child identification and evaluation, program implementation, and fiscal requirements of participating agencies. These procedures also include a method for taking corrective actions, providing technical assistance and ensuring the provision of appropriate programs.

Bulletin 1922 may be seen in its entirety in the Office of the State Register, located on the Fifth Floor of the Capitol Annex, 1051 North Third Street, Baton Rouge, LA; in the Office of Special Educational Services, State Department of

Education; and in the Office of the State Board of Elementary and Secondary Education, located in the education building in Baton Rouge, LA.

Emergency adoption is necessary since the bulletin must be submitted to the United States Department of Education by May 3, 1993, in order for the federal funds to be received by July 1, 1993.

The effective date of this emergency rule is July 1, 1993.

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Technical Institute Salary Schedule

The State Board of Elementary and Secondary Education, at its meeting of April 22, 1993, exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953B and suspended the flex hiring scale for technical institutes for one year which will enable all new personnel, with the exception of practical nursing instructors and individuals previously employed in the postsecondary technical institute system to be employed at Step 1 until the walkover is fully funded. Practical nursing instructors and instructors previously employed may be placed on the schedule up to and including Step 5.

This action, which is an amendment to Bulletin 1868, BESE Personnel Manual, Chapter D, Section 145, deletes No. 1 and No. 2 of the Salary Schedule for Postsecondary Vocational-Technical Personnel, FY 1991-92 which was adopted as an emergency rule, effective September 26, 1991 and printed in the October, 1991 issue of the *Louisiana Register*.

This board action will relieve problems associated with hiring individuals during Fiscal Year 1992-93 in the critical shortage areas and is part of the implementation procedure of the New Professional Development Salary Schedule approved by the 1992 Regular Session of the Legislature to Fund Act 612 passed by the 1991 Regular Session. This salary schedule printed below is an amendment to Bulletin 1868, *BESE Personnel Manual*, Chapter D: Employee Compensation, and is being re-adopted as an emergency rule in order to continue the rule until it can become finalized as a rule. The effective date of this emergency rule is May 1, 1993.

Chapter D: Employee Compensation
145: Vocational-Technical System

A. Salary Implementation

1. Placement on Vocational-Technical Salary Schedule approved by BESE in August 1989 for First Time Employees effective July 1, 1990, shall be as follows:

CREDIT AS APPLICABLE

It is possible that no credit will be earned in a category.

Points Per
Year

- a. Work Experience (Area of Certification)
 - (1) Year of Work Experience Part Time (Cumulative to 2,000 hours) at Entry Level 30
 - (2) Each Year Work Experience Full Time at Entry Level 40
 - (3) Each Year Work Experience Full Time at Journeyman Level (Full Time = 2,000 hours within a 12-month period) 50
 - b. Teaching Experience
 - (1) Year Teaching Experience Part Time (Cumulative to 180 days) 20
 - (2) Each Year Teaching Experience Full Time (180 days/school year) 30
 - (3) Each Year Teaching Experience Full Time in Certified Field at Secondary Level (180 days/school year) 40
 - (4) Each Year Teaching Experience Full Time in Certified Field at Postsecondary Level (208 days/school year) 50
- For postsecondary director and regional director, points shall be granted as follows:
- (5) Each year administrative full time, whole school year experience at Secondary Level 40
 - (6) Each year administrative full time, whole school year experience at Postsecondary Level 50
- c. Vocational Competency/Certification/License (Area of Certification)
 - (1) Passed State Approved Occupational Competency Test 100
 - (2) National or Louisiana Certification 100
 - (3) National or Louisiana License 100

The maximum points to be awarded in this category is 300 points.
 - d. Degree/Diplomas (Highest Degree/Diploma Only)
 - (1) Three Year R.N. Diploma (for Instructor level only) 80
 - (2) B.S. Degree 80
 - (3) B.S. Degree in Education 90
 - (4) B.S. Degree in Certified Field 100
 - (5) Master's Degree 110
 - (6) Master's Degree in Certified Field 120
 - (7) Master's Degree Plus 30 Hours 130
 - (8) Specialist Degree in Certified Field 140
 - (9) Doctor's Degree in Education 150
 - (10) Doctor's Degree in Certified Field 160

2. To receive a step increment, an employee must have been employed in a position for at least six months in the prior fiscal year and have a valid VTIE Certificate.

NOTE:

Yearly Step Increment

- Steps 1 - 5 = \$ 600
- Steps 6 - 10 = \$ 700
- Steps 11 - 15 = \$ 800
- Steps 16 - 20 = \$ 900
- Steps 21 - 25 = \$1,000

- 3. Salary adjustments will be given on July 1.
- 4. Movement Within a Scale

a. When moving from one step to another step within a salary level, move down when computing an individual's salary on July 1.

b. When moving from one salary level to another salary level, move across and down one step when computing an individual's salary on July 1.

c. When an individual has reached step 5 on Salary Level 1, he/she must have accumulated 520 points in order to move to Salary Level 2.

d. When an individual has reached Step 10 on Salary Level 2, he/she must have accumulated 970 points in order to move to Salary Level 3.

e. When an individual has reached Step 15 on Salary Level 3, he/she must have accumulated 1,470 points in order to move to Salary Level 4.

f. When an individual has reached Step 20 on Salary Level 4, he/she must have accumulated 2,020 points in order to move to Salary Level 5.

NOTE: Points Needed to Enter Pay Level

- Level 1 = Meet Basic Certification Requirements
- Level 2 = 520
- Level 3 = 970
- Level 4 = 1,470
- Level 5 = 2,020

5. Point Count for Movement From One Pay Level to Another Pay Level

Item	Point Count
a. Approved College Course (3 semester hours after employment)	20
b. New Instructor Workshop *	30
c. State Sponsored Inservice Workshop per Inservice Hour *	1
d. State Approved Inservice Workshop per Inservice Hour *	1
e. One Year Successful Employment	50
f. State Sponsored Professional Conference *	10
g. National Sponsored Professional Conference *	5
h. National or State Certification in Area of Certification	50
i. National or State License in Area of Certification	50
j. Complete a Degree After Employment **	
(1) B.S. Degree	80
(2) B.S. Degree in Education	90
(3) B.S. Degree in Certified Field	100
(4) Master's Degree	100
(5) Master's Degree in Certified Field	120
(6) Master's Degree Plus 30 Hours	130
(7) Specialist Degree in Certified Field	140
(8) Doctor's Degree in Education	150
(9) Doctor's Degree in Certified Field	160

*Prior to attendance, all workshops and conferences must be approved by the Office of Vocational Education.

**If a teacher had a degree when employed and earned a higher degree(s) or applicable certification after employment, the total credit given in this category will be adjusted upward to the new applicable point count.

6. Extension Rate: The minimum extension rate shall be \$15 per hour and the maximum rate shall be \$20 per hour.

B. Pay Scales: A salary schedule for all unclassified personnel in the Vocational-Technical system is established effective July 1, 1990.

1. Postsecondary Vocational-Technical Instructor/ Data Manager/ Curriculum Specialist/ Curriculum Coordinator/ Computer Specialist/ Student Personnel Services Officer or Assistant Director/ Special Program Coordinator Pay Scale.

<u>Step</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>	<u>Level 5</u>
1	\$24,000	\$24,100	\$24,200	\$24,300	\$24,400
2	24,600	24,800	25,000	25,200	25,400
3	25,200	25,500	25,800	26,100	26,400
4	25,800	26,200	26,600	27,000	27,400
5	26,400	26,900	27,400	27,900	28,400
6		27,600	28,200	28,800	29,400
7		28,300	29,000	29,700	30,400
8		29,000	29,800	30,600	31,400
9		29,700	30,600	31,500	32,400
10		30,400	31,400	32,400	33,400
11			32,200	33,300	34,400
12			33,000	34,200	35,400
13			33,800	35,100	36,400
14			34,600	36,000	37,400
15			35,400	36,900	38,400
16				37,800	39,400
17				38,700	40,400
18				39,600	41,400
19				40,500	42,400
20				41,400	43,400
21					44,400
22					45,400
23					46,400
24					47,400
25					48,400

B. Pay Scales:

1. Instructor, etc.

a. Placement of Individual on Pay Scale for First Time effective July 1, 1990

Points	Step	Pay
Basic Cert. (200 pts.)	1	\$24,000
240	2	\$24,600
280	3	\$25,200
320	4	\$25,800
400	5	\$26,400
445	6	\$27,600
490	7	\$28,300
535	8	\$29,000
580	9	\$29,700
625	10	\$30,400

No individual entering the system as instructor/data manager/curriculum specialist/curriculum coordinator/computer specialist/student personnel services officer or assistant director/special program coordinator for the first time can exceed Step 10 of Level 2 (\$30,400) in base pay.

b. Additional Salary Adjustment Per Pay Period

- (1) Curriculum Specialist = \$125
- (2) Special Program Coordinator = \$125
- (3) Student Personnel Services Officer = \$150
- (4) Computer Specialist = \$150
- (5) Assistant Director = \$175

c. Department Head/Curriculum Coordinator Additional Increment Per Fiscal Year

- 4-6 Staff Members = \$700 (Including Department Head/Curriculum Coordinator)
- 7 + Staff Members = \$800 (Including Department Head/Curriculum Coordinator)

2. Postsecondary Vocational-Technical Institute/Resource
Center Director Pay Scale

<u>Step</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>	<u>Level 5</u>
1	\$30,000	\$30,100	\$30,200	\$30,300	\$30,400
2	30,600	30,800	31,000	31,200	31,400
3	31,200	31,500	31,800	32,100	32,400
4	31,800	32,200	32,600	33,000	33,400
5	32,400	32,900	33,400	33,900	34,400
6		33,600	34,200	34,800	35,400
7		34,300	35,000	35,700	36,400
8		35,000	35,800	36,600	37,400
9		35,700	36,600	37,500	38,400
10		36,400	37,400	38,400	39,400
11			38,200	39,300	40,400
12			39,000	40,200	41,400
13			39,800	41,100	42,400
14			40,600	42,000	43,400
15			41,400	42,900	44,400
16				43,800	45,400
17				44,700	46,400
18				45,600	47,400
19				46,500	48,400
20				47,400	49,400
21					50,400
22					51,400
23					52,400
24					53,400
25					54,400

a. Placement of Individuals on Pay Scale for First Time, effective July 1, 1990.

Points	Step	Pay
Basic Cert. (200 pts.)	1	\$30,000
240	2	\$30,600
280	3	\$31,200
320	4	\$31,800
400	5	\$32,400
445	6	\$33,600
490	7	\$34,300
535	8	\$35,000
580	9	\$35,700
625	10	\$36,400

- 13 - 15 Classified Personnel = \$ 600
- 16 - 18 Classified Personnel = \$ 700
- 19 - 21 Classified Personnel = \$ 800
- 22 - 24 Classified Personnel = \$ 900
- 25 - 27 Classified Personnel = \$1,000

(5) Supervise Off-Campus Facilities

- 1 Facility = \$ 500
- 2 Facilities = \$ 750
- 3 Facilities = \$1,000
- 4 Facilities = \$1,250
- 5 Facilities = \$1,500
- 6 Facilities = \$1,750
- 7 Facilities = \$2,000
- 8 Facilities = \$2,250

No individual entering the system as an institute/resource center director for the first time can exceed Step 10 of Level 2 (\$36,400) in base pay.

b. Salary Adjustment Factors

(1) Supervise Assistant Director

- 1 Assistant Director = \$ 400
- 2 Assistant Directors = \$ 500
- 3 Assistant Directors = \$ 600
- 4 Assistant Directors = \$ 700
- 5 Assistant Directors = \$ 800
- 6 Assistant Directors = \$ 900
- 7 Assistant Directors = \$1,000

(2) Supervise Student Personnel Officer

- 1 Student Personnel Officer = \$300
- 2 Student Personnel Officers = \$400
- 3 Student Personnel Officers = \$500
- 4 Student Personnel Officers = \$600
- 5 Student Personnel Officers = \$700
- 6 Student Personnel Officers = \$800
- 7 Student Personnel Officers = \$900

(3) Supervise Instructors

- 1 - 6 Instructors = \$ 900
- 7 - 12 Instructors = \$ 1,000
- 13 - 18 Instructors = \$ 1,100
- 19 - 24 Instructors = \$ 1,200
- 25 - 30 Instructors = \$ 1,300
- 31 - 36 Instructors = \$ 1,400
- 37 - 42 Instructors = \$ 1,500
- 43 - 48 Instructors = \$ 1,600
- 49 - 54 Instructors = \$ 1,700
- 55 - 60 Instructors = \$ 1,800
- 61 - 66 Instructors = \$ 1,900
- 67 - 72 Instructors = \$ 2,000

(4) Supervise Classified Personnel

- 1 - 3 Classified Personnel = \$ 200
- 4 - 6 Classified Personnel = \$ 300
- 7 - 9 Classified Personnel = \$ 400
- 10 - 12 Classified Personnel = \$ 500

3. Postsecondary Vocational-Technical Regional Director
Pay Scale

<u>Step</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Level 4</u>	<u>Level 5</u>
1	\$32,000	\$32,100	\$32,200	\$32,300	\$32,400
2	32,600	32,800	33,000	33,200	33,400
3	33,200	33,500	33,800	34,100	34,400
4	33,800	34,200	34,600	35,000	35,400
5	34,400	34,900	35,400	35,900	36,400
6		35,600	36,200	36,800	37,400
7		36,300	37,000	37,700	38,400
8		37,000	37,800	38,600	39,400
9		37,700	38,600	39,500	40,400
10		38,400	39,400	40,400	41,400
11			40,200	41,300	42,400
12			41,000	42,200	43,400
13			41,800	43,100	44,400
14			42,600	44,000	45,400
15			43,400	44,900	46,400
16				45,800	47,400
17				46,700	48,400
18				47,600	49,400
19				48,500	50,400
20				49,400	51,400
21					52,400
22					53,400
23					54,400
24					55,400
25					56,400

a. Placement of Individuals on Pay Scale for First Time, effective July 1, 1990.

Points	Step	Pay
Basic Cert. (200 pts.)	1	\$32,000
240	2	\$32,600
280	3	\$33,200
320	4	\$33,800
400	5	\$34,400
445	6	\$35,600
490	7	\$36,300
535	8	\$37,000
580	9	\$37,700
625	10	\$38,400

201 - 225	- \$1,200
226 - 250	- \$1,300
251 - 300	- \$1,400
301 - 350	- \$1,500
351 - 400	- \$1,600
(4) Facilities (Campuses) (Region Wide)	
1 - \$	600
2 - \$	700
3 - \$	800
4 - \$	900
5 - \$	1,000
6 - \$	1,100
7 - \$	1,200
8 - \$	1,300
9 - \$	1,400
10 - \$	1,500
11 - \$	1,600
12 - \$	1,700
13 - \$	1,800
14 - \$	1,900
15 - \$	2,000
16 - \$	2,100
17 - \$	2,200
18 - \$	2,300
19 - \$	2,400
20 - \$	2,500

No individual entering the system as a Regional Director for the first time can exceed Step 10 of Level 2 (\$38,400) in base year.

b. Salary adjustment factor for supervision

(1) Directors (Region Wide)

- 1 - \$ 500
- 2 - \$ 600
- 3 - \$ 700
- 4 - \$ 800
- 5 - \$ 900
- 6 - \$1,000
- 7 - \$1,100
- 8 - \$1,200
- 9 - \$1,300
- 10 - \$1,400
- 11 - \$1,500
- 12 - \$1,600

(2) Classified Personnel (Regional Staff)

- 1 - \$ 400
- 2 - \$ 500
- 3 - \$ 600
- 4 - \$ 700
- 5 - \$ 800
- 6 - \$ 900
- 7 - \$1,000
- 8 - \$1,100
- 9 - \$1,200
- 10 - \$1,300
- 11 - \$1,400
- 12 - \$1,500

(3) Personnel (Region Wide)

- 1 - 25 - \$ 500
- 6 - 50 - \$ 600
- 51 - 100 - \$ 700
- 101 - 125 - \$ 800
- 126 - 150 - \$ 900
- 151 - 175 - \$1,000
- 176 - 200 - \$1,100

Carole Wallin
Executive Director

DECLARATION OF EMERGENCY

**Office of the Governor
Office of Elderly Affairs**

Frail Elderly Program (LAC 4:VII.1243)

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 rule, effective July 1, 1993. This action is necessary to comply with Act 357 of the 1993 Regular Session of the State Legislature. This emergency rule shall be effective for the maximum period allowed under R.S. 49:954(B) et seq. or until the final rule is adopted, whichever occurs first.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

§1243. Frail Elderly Program

A. Intent

1. The Frail Elderly Program (hereafter referred to as "the program") is designed to provide home and community services to persons 60 years of age or older who have some degree of functional impairment. Such impairment shall be determined by the comprehensive assessment conducted in accordance with Subsection D of this Section.

2. In areas serviced by a voluntary council on aging which agrees to participate, the program shall be administered by the council, subject to the rules and regulations promulgated by the Office of Elderly Affairs (hereafter referred to as "the office").

3. Participating councils on aging shall aggressively market these services to the community and expand their service capabilities to meet the need of frail older people.

C. Objectives

The program has three objectives:

a. to provide services to eligible participants who are in need and are willing to pay for such services;

b. to ensure that eligible participants who are able to pay for all or a portion of the cost of a service do so; and

c. in the process of implementing the above two objectives, to utilize additional resources to expand services and reduce the number of people on waiting lists.

D. Eligibility

Eligibility for the program shall be determined on the basis of the assessment conducted using the intake/assessment instrument developed by the office. No person shall receive services under this program without such services being authorized on the basis of the comprehensive assessment results.

E. Funding

1. Funding for the program shall be provided by that portion of appropriations from the state general fund to the parish voluntary councils on aging not needed to match the federal Older Americans Act or other matching fund programs.

2. The office shall establish fees for each service provided under the program. Persons eligible for the program shall be assessed an appropriate fee on a sliding scale based upon the persons ability to pay. Clients not required to pay shall be informed of service costs, and be allowed to voluntarily contribute to the cost.

3. In this program, it shall be considered that state funds are expended first. While participating councils on aging will be allowed to keep a "reserve" fund, the amount of such fund shall be limited. Maintaining a large cash surplus would be inconsistent with the intent. Therefore, a high percentage of collected fees shall be utilized to provide additional services. Funds remaining unexpended at year end will be considered as fee revenue.

4. All fee revenue generated by the program shall be utilized only for the purpose of increasing the provision of any of the services allowed under this program to eligible persons.

F. Service Definitions

Uniform definitions of services in the Frail Elderly Program shall be developed by the office and employed by all participating councils on aging as provided in LAC 4:VII.1217.

G. Reporting

1. Participating councils on aging shall submit reports to the office as required.

2. The office shall report annually to the legislature on

the implementation of the Frail Elderly Program as required by R.S. 46:937.

James R. Fontenot
Director

DECLARATION OF EMERGENCY

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

Facility Need Review - Downsized ICF/MR Beds

(Editor's Note: The following emergency rule, which appeared on pages 437-438 of the April 20, 1993 Louisiana Register, is being republished in its entirety to correct the effective date, April 20, 1993.)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, is adopting the following emergency rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(B)(1).

EMERGENCY RULE

Effective April 20, 1993, the Department of Health and Hospitals, Bureau of Health Services Financing, will require that before any Medical Assistance recipient is admitted to an intermediate care facility for the mentally retarded for services in a bed approved for Title XIX (Medicaid) reimbursement through the downsizing of a large residential facility (16 or more beds) to meet a specific disability need identified in a request for proposals issued by the department, prior approval of the person to be admitted to the facility first be obtained by the provider from the regional office of Mental Retardation/Developmental Disabilities. Therefore, the policies and procedures for facility need review are being revised as follows:

12501. Subsection F. Revocation of Approvals/Availability of Beds for Title XIX Recipients, page 5, the following shall be added as number 4:

When the Office of Mental Retardation/Developmental Disabilities advises Facility Need Review that a group or community home bed for the mentally retarded/developmentally disabled which was approved for Title XIX reimbursement through the downsizing of a large residential facility (16 or more beds) to meet a specific disability need identified in a request for proposals issued by the department, is not being used to meet the need identified in the request, approval of the bed shall be revoked. This determination by the Office of Mental Retardation/Developmental Disabilities shall be based on the facility serving a resident in the above referenced bed without prior approval from that office.

12502 A.6. Exception for Beds Approved from Downsizing Large Residential ICF/MRs (16 or more beds), page 8, the following shall be added as letter e:

Prior approval of all residents for admission to facilities in beds approved through downsizing to meet a specific disability need identified in a request for proposals issued by the

department is required from the Office of Mental Retardation/Developmental Disabilities before admission.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

Interested persons may submit written comments to: 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 Emergency Rule. Copies of this emergency rule and all other Medicaid rules and regulations are available in the Medicaid parish offices for review by interested parties.

J. Christopher Pilley
Secretary

DECLARATION OF EMERGENCY

Department of Social Services Office of Family Support

Individual and Family Grant Program
(LAC 67:III.6501, 6502)

The Department of Social Services, Office of Family Support, has exercised the emergency provision of the Administrative Procedure Act, R.S. 49:953(B) to adopt the following emergency rule effective June 1, 1993 for a period of 120 days, in the Individual and Family Grant (IFG) Program.

Emergency rulemaking is necessary to amend the current maximum grant and flood insurance amounts in the Individual and Family Grant Program. It is necessary to extend emergency rulemaking since the emergency rule of February 4, 1993 is effective for a maximum of 120 days and will expire before the final rule takes effect.

The Department of Social Services, Office of Family Support, proposes to amend the Louisiana Administrative Code, Title 67, Part III, Subpart 10, Individual and Family Grant Program.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program

Chapter 65. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§6501. Maximum Grant Amount

A. The maximum grant amount in the IFG Program for Federal Fiscal Year October 1992 through September 1993 is \$11,900.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131, P.L. 93-288 and F.R. 57:45794.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of

Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:

§6502. Flood Insurance

* * *

B. For Federal Fiscal Year October 1992 through September 1993, the dollar value of the required flood insurance policy for housing and personal property grants where the applicant resides in a flood zone is \$7,000 building and \$4,900 contents for a homeowner, and \$11,900 contents for a renter.

* * *

AUTHORITY NOTE: Promulgated in accordance with 44 CFR 206.131 and P.L. 93-288.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 15:744 (September 1989), amended by the Department of Social Services, Office of Family Support, LR 17:474 (May 1991), LR 17:766 (August 1991), LR 17:888 (September 1991), LR 18:939 (September 1992), LR 18:1352 (December 1992), LR 19:

Gloria Bryant-Banks
Secretary

DECLARATION OF EMERGENCY

Department of Treasury Louisiana Housing Finance Agency

HOME Investment Partnership Program
(LAC 16:II.Chapter 1)

In accordance with R.S. 49:953(B), the Louisiana Housing Finance Agency (the "Agency") is exercising the emergency provisions of the Administrative Procedure Act in connection with the administration and allocation of HOME Program funds under the Cranston-Gonzalez National Affordable Housing Act.

The purpose of this emergency rule is to avoid imminent peril to the welfare of the residents of the state. Failure of the agency to adopt this emergency rule would harm the residents of the state by not permitting the state to award, commit and disperse HOME Programs funds to the fullest extent permitted by federal law.

This emergency rule shall be effective from the May 13, 1993 expiration date of a previous emergency rule (adopted January 13, 1993) and shall continue in effect until the adoption of a final rule or 120 days, whichever occurs first.

The agency has adopted the form of HOME Investment Partnership Program Application Package in connection with the administration and allocation of HOME Program funds. The following emergency rule and policies govern the allocation and award of HOME Program funds.

Title 16

COMMUNITY AFFAIRS

Part II. Louisiana Housing Finance Agency

Chapter 1. Home Investment Partnership Program

§101. Home Program Application Fees

A. Rehabilitation

Project Size	Application Fee
1 to 4 units	\$ 200
5 to 16 units	\$ 500
17 to 32 units	\$ 1,000
33 to 60 units	\$ 1,500
61 to 100 units	\$ 2,000
Over 100 units	\$ 200

- B. Home Buyer Assistance
Single family dwellings (1-4 units) \$ 200

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19:

§103. Aggregate Pools

Name	% of Available Funds
A. Allocation to Jurisdictions to Become Eligible to Administer HOME Program Directly	4%
B. Administrative Expenses	5%
C. CHDO Operating Support	5%
D. CHDO General Fund	15%
E. Special Needs Set Aside	24%
F. Rehabilitation Programs	31%
G. Home Buyer Assistance	16%

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19:

§105. Selection Criteria to Award Home Funds to Rehabilitation Projects

	Points
A. Project Located In Comprehensive and Concentrated Neighborhood Revitalization Area	25
B. Project to be Owned, Developed or Sponsored by Community Housing Development Organization (CHDO)	25
C. Leverage Ratio for Each HOME Dollar Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25
D. Project to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2

- E. Project to Rehabilitate Housing Units of Historic or Architectural Significance 25
- F. Project to Rehabilitate Housing Units Serving Special Needs Groups 50
- G. Project Promotes Cooperative Housing 25
- H. Project to Expend HOME Funds by June 30, 1993 50
- I. Project to Establish Lease-Purchase Turnkey Program 25

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Finance Agency, LR 19:

§107. Selection Criteria to Award Home Funds to Local Governmental Units (Sub-Recipients)

	Points
A. Jurisdiction Proposes Comprehensive and Concentrated Neighborhood Revitalization Area	25
B. Jurisdiction Proposes to Use Community Housing Development Organization ("CHDOs") to Own, Sponsor or Develop Units to be Rehabilitated	25
C. Leverage Ratio for Each HOME Dollar Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25
D. Jurisdiction Proposes to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:	
\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2
E. Jurisdiction Rehabilitate to HQS Following Percentage of Substandard Units in Rehabilitation Area:	
90 - 100%	50
80 - 90%	40
70 - 80%	30
60 - 70%	20
50 - 60%	10
less than 50%	0
F. Jurisdiction Proposes to Rehabilitate Housing Units of Historic or Architectural Significance	25
G. Jurisdiction Proposes to Rehabilitate Housing Units Serving Special Needs Groups	50
H. Jurisdiction Proposes to Promote Cooperative Housing	25
I. Jurisdiction Proposes to Commit HOME Funds by June 30, 1993	50
J. Jurisdiction Proposes to Establish Lease-Purchase Turnkey Program	25

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1, et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 19:

V. Jean Butler
President

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Red Snapper Trip Limits

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 the authority given the secretary of the Department of Wildlife and Fisheries at the Wildlife and Fisheries Commission meeting of February 4, 1993, to take all necessary steps to promulgate and effectuate commercial red snapper trip limits; 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:

COMMERCIAL RED SNAPPER TRIP LIMITS

Those persons possessing a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources, who do not possess a red snapper endorsement on that permit are limited to a daily take and possession limit of 200 pounds per vessel.

Those persons possessing a permit issued by the National Marine Fisheries Service under the Federal Fishery Management Plan for the Gulf of Mexico Reef Fish resources, who do possess a red snapper endorsement on that permit are limited to a daily take and possession limit of 2,000 pounds per vessel.

This rule shall be effective June 3, 1993, upon expiration of the previous declaration of emergency, and expire July 20, 1993.

The Gulf of Mexico Fishery Management Council has requested that this action be taken to provide consistent regulations for the fishery in both state and federal waters off the coast of Louisiana. The action is intended to benefit the industry by extending the duration of the fishing season, which is anticipated to result in more stable exvessel prices to the fishermen.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spotted Seatrout Commercial Closure

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act, R.S. 49:967 which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons, R.S. 56:325.3 which allowed the commission to establish an annual quota for spotted seatrout, and the commission rule of February 1992, LAC 76:VII.341, establishing a quota of one million pounds; the secretary of the Department of Wildlife and Fisheries, pursuant to a resolution passed by the Wildlife and Fisheries Commission on March 4, 1993 in Baton Rouge, has hereby declared an emergency and adopted the following emergency rule.

EMERGENCY RULE

Pursuant to R.S. 56:325.3 and LAC 76:VII.341, the commercial fishery for spotted seatrout is hereby closed until midnight, September 14, 1993, effective at midnight, Friday, April 16, 1993.

The purchase, barter, trade or sale of spotted seatrout taken from Louisiana waters after the closure is prohibited.

The commercial taking or landing of spotted seatrout in Louisiana, whether caught within or without the territorial waters of Louisiana after the closure is prohibited.

Effective with the closure, no vessel possessing or fishing any seine, gill net, trammel net, or hoop net shall have spotted seatrout aboard the vessel, whether caught within or without the waters of the state.

Pursuant to R.S. 56:322 and effective with the closure, the legal commercial mesh size for all gill nets, trammel nets and seine nets used in saltwater areas of the state, other than strike nets, shall be a minimum of 4½ inches stretched and a person shall have in possession or used aboard a vessel no more than two strike nets.

Nothing shall prohibit the possession of fish legally taken prior to the closure and all commercial dealers possessing spotted seatrout taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.4.

Joe L. Herring
Secretary

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Spring Inshore Shrimp Season

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

The Wildlife and Fisheries Commission does hereby:

1. set the 1993 spring inshore shrimp season to open as follows:

a. in Zone 1, that portion of Louisiana's inside waters, as described in R.S. 56:495, from the Louisiana/Mississippi state line to South Pass of the Mississippi River, and

b. in Zone 2, that portion of Louisiana's inside waters, as described in R.S. 56:495, from South Pass of the Mississippi River to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, and

c. in Zone 3, that portion of Louisiana's inside waters, as described in R.S. 56:495, from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas state line at 6 a.m. on June 7, 1993.

2. authorize and empower the secretary of the Department of Wildlife and Fisheries to change the opening date or close the 1993 spring inshore shrimp season in any area or Zone when the Marine Fisheries Division certifies that the biological and technical data indicates the need to do so.

The commission finds that shrimp in these zones are projected to be of legal size count and will meet the management criteria by the opening dates of the season.

Bert H. Jones
Chairman

RULES

RULE

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Pesticide Waste and Pesticide Cash Sales (LAC 7:XXIII.Chapter 131)

The Department of Agriculture and Forestry advertises its adoption of rules enacting LAC 7:XXIII. These rules codify existing policies and procedures for monitoring and determining pesticide wastes. An additional rule, LAC 7:XXIII.13134, adds restrictions to the cash sale of certain pesticides.

Title 7 AGRICULTURE AND ANIMALS

Part XXIII. Pesticide

Chapter 131. Advisory Commission on Pesticides

§13134. Pesticide Dealers; Restrictions on Cash Sales

Pesticide dealers shall not sell the following restricted use pesticides for currency without first visually inspecting and confirming that the person seeking to purchase said pesticide holds the proper certification:

1. Methyl parathion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3252(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 19: (May 1993).

Subchapter BB. Pesticide Wastes

§13201. Procedures for Monitoring

A. In the course of conducting routine monitoring of pesticide use in accordance with the procedures described in §13151, the commissioner shall monitor for the presence of pesticide wastes.

B. Monitoring for the presence of pesticide wastes shall include, but not be limited to, investigations involving canceled or suspended products, spill responses, and citizen complaints.

C. The procedures for monitoring pesticide wastes shall include but not be limited to the following activities:

1. visual or other sensory observations of conditions which may support the probability or actuality of the presence of pesticide wastes;

2. inquiries into the relevant circumstances surrounding the probability or actuality of the presence of pesticide wastes which may include sample taking and analysis; and

3. a preliminary determination as to whether or not there is a presence of pesticide wastes based upon the observations and the inquiries or upon relevant data, shall be made by the director of pesticide and environmental programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3273.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19: (May 1993).

§13203. Procedures for Determinations

When the director makes a preliminary determination as a result of monitoring or otherwise, that there is a presence of pesticide wastes as a result of monitoring or otherwise, the procedures for determining whether the concentrations of pesticide wastes exceed promulgated federal or state standards, or that the concentrations of pesticides pose a threat or reasonable expectations of a threat to human health or to the environment are as set out below.

The commissioner shall take into consideration the following:

A. the results of the analysis of samples, if available;

B. the criteria established in R.S. 3:3274(C) as of the adoption date of these regulations;

C. whether a pesticide concentration exceeds and the degree to which it exceeds the maximum concentration of pesticide contaminants listed in Table 5 of LAC 33:V.4903 as amended through November 1992; and

D. other relevant data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3271 and R.S. 3:3274.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19: (May 1993).

§13205. Appropriate Actions

A. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes do not exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides do not pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate orders to provide for proper disposal;
2. take such other action as the commissioner deems appropriate under circumstances.

B. When the commissioner has determined that there is a presence of pesticide wastes and that the pesticide wastes exceed promulgated federal or state standards, or when the commissioner determines that the concentrations of pesticides pose a threat or reasonable expectation of a threat to human health or to the environment, the commissioner may take one or more of the following actions:

1. issue appropriate protective orders to mitigate the further contribution to the accumulation of the pesticide or pesticide wastes;
2. issue remedial orders directing prompt remedial action to correct the offending situation;
3. communicate his determination to any appropriate governmental agency;
4. participate in issuing a public communication concerning the determination. Where a cooperative agreement exists, each public communication shall be issued in accordance with same;
5. take such other action as the commissioner deems appropriate under circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19: (May 1993).

§13207. Record Keeping

In addition to the record keeping requirements under §13157, §13159 and §13161, or otherwise, all persons conducting or having conducted activities of, generating, owning, possessing, storing, transporting, or disposing of pesticide wastes, shall keep copies of all records required by local, state or federal laws or regulations for a period of not less than three years from the receipt of any such record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19: (May 1993).

§13209. Transportation of Pesticide Waste

All persons transporting pesticide wastes shall transport such wastes in a manner that conforms to the procedures and requirements set forth by the Louisiana Department of

Environmental Quality and the Louisiana Department of Public Safety, in addition to all other applicable local, state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3271.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Science, LR 19: (May 1993).

Bob Odom
Commissioner

RULE

**Department of Agriculture and Forestry
Office of Forestry
Forestry Commission**

Seedling Prices (LAC 7:XXXIX.20301)

The Department of Agriculture and Forestry, Office of Forestry Commission, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., is amending LAC 7:XXXIX.20301 pertaining to seedling prices.

Adoption is necessary in order that the Office of Forestry fulfill the provisions of R.S. 3:4303 to grow and provide tree seedlings to Louisiana landowners at a minimum cost. This emergency adoption will enable the Office of Forestry to market all available tree seedlings currently unsold.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 203. Tree Seedlings

§20301. Seedling Prices

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings:

1. Improved Pine Seedlings \$ 30 per thousand
2. Special Pine Seedlings 50 per thousand
3. Hardwood Seedlings 150 per thousand

B.1. Volume discounts for bulk loblolly/slash pine seedling orders and contracts shall be as follows:

Order/Sale Volume (# seedlings)	Proposed Discounted Prices
- 1,000,000	\$30.00/M
1,000,001 - 2,000,000	\$29.50/M
2,000,001 - 3,000,000	\$29.00/M
3,000,001 - 4,000,000	\$28.50/M
4,000,001 - 5,000,000	\$28.00/M
5,000,001 - 6,000,000	\$27.50/M
6,000,001 -	\$27.00/M

The Office of Forestry seed costs shall be deducted from these prices when seedlings are produced from seed supplied by the customer.

2. When there is a surplus of seedlings above planned or expected sales, a more accelerated rate of price reductions will be considered, subject to approval of the state forester and/or commissioner of Agriculture.

3. This accelerated rate of discounts will be applied no earlier than 30 days prior to the anticipated end of the annual lifting season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry and the Louisiana Forestry Commission, LR 8:285 (June 1982), amended LR 10:458 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry and Louisiana Forestry Commission, LR 13:432 (August 1987), amended LR 19: (May 1993).

Bob Odum
Commissioner

RULE

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

Timber Stumpage Values (LAC 7:XXXIX.20101)

TITLE 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Office of Forestry and the Tax Commission, as required by R.S. 3:4343, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1993:

1. Pine Sawtimber \$212.03 per M bd. ft.
2. All Hardwoods \$104.32 per M bd. ft.
3. Pine Pulpwood \$26.85 per Cord
4. Hardwood Pulpwood \$8.27 per Cord

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1543.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 5:468 (December 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), amended LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19: (May 1993).

Paul D. Frey, State Forester
Office of Forestry
Malcolm B. Price, Chairman
Tax Commission

RULE

Department of Economic Development Board of Cosmetology

Amendments Reflecting Legislative Changes (LAC 46:XXXI.Chapters 1-17)

Notice is hereby given that the Board of Cosmetology has revised its rules and regulations to reflect legislative changes, adopted board policies and updated changes in the industry under Title 46, Part XXXI.

Copies of this rule may be obtained in full text by contacting the Office of the State Register, 1051 North Third Street, Baton Rouge, LA, (504) 342-5015 (please refer to log 9305#019 when inquiring about this document) or by contacting the Board of Cosmetology, 11622 Sunbelt Court, Baton Rouge, LA 70809.

Joel C. Mumphrey
Chairman

RULE

Department of Economic Development Office of Financial Institutions

Sale of Certain Annuities by State Chartered Banks (LAC 10:I.571 and 573)

In accordance with the authority granted by R.S. 6:121 to promulgate regulations and R.S. 6:242 to define the incidental powers of state-chartered banks, the Department of Economic Development, commissioner of Financial Institutions adopts the following rule for the purpose of providing a means by which state chartered banks may have authority to sell fixed and variable annuities.

Title 10

BANKS, CREDIT UNIONS, SAVINGS AND LOANS, UCC, AND CONSUMER CREDIT

Part I. Banks

Chapter 5. Powers of Banks

Subchapter E. (Reserved) Sale of Annuities

§571. Definitions

The commissioner has determined that the following terms are not defined under the Louisiana Banking Code, R.S. 6:1 et seq., and adopts the following definitions for all purposes set forth therein.

Fixed Annuity—a form of financial investment instrument whose primary function is to pay periodically during the life of the annuitant or during a term fixed by contract, but not upon the occurrence of a loss on a specified subject by specified perils.

Insurance—a contract, the primary purpose of which is for a stipulated consideration one party undertakes to compensate the other for loss on a specified subject by specified perils.

Variable Annuity—a form of financial investment instrument whose primary function is to pay periodically

during the life of the annuitant or during a term fixed by contract (but not upon the occurrence of a loss on a specified subject by specified perils) an amount based upon the value of the securities portfolios in which an investment is made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:242 and 6:5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (May 1993).

§573. General Provisions

A. Upon approval of the commissioner of financial institutions, a state-chartered bank and/or its subsidiary and employees may engage in the sale of fixed or variable annuities and earn commissions thereon.

B. A state chartered bank and/or its subsidiary and employees shall obtain any license(s) as may be required by and available from the Louisiana Department of Insurance before engaging in the sale of fixed or variable annuities.

C. In order to obtain approval, a state-chartered bank that desires to engage in the sale of fixed or variable annuities pursuant to this rule shall submit a written proposal covering the following items to the commissioner of financial institutions:

1. a description of the type or types of annuities to be sold;
2. the name of each company whose annuities are to be sold and its most recent rating compiled by at least two nationally recognized rating services;
3. the name of each employee engaging in the sale of annuities;
4. a copy of the bank's policy with respect to the sale of annuities which shall include the following:
 - a. a description of the bank's program for servicing its customers who purchase annuities;
 - b. a description of the bank's marketing program;
 - c. copies of all annuity contracts and other documents which will be executed by the parties;
 - d. a statement that there will be no tying arrangements between the sale of annuities and other bank products.

D. A state-chartered bank that has been approved to engage in the sale of fixed or variable annuities must disclose in all advertising for the solicitation of such annuities and must advise any person seeking to purchase an annuity that the annuity is not a deposit of the bank and that the annuity is not insured by the Federal Deposit Insurance Corporation or any other federal or state agency. The bank must also have any purchaser of an annuity sign a disclosure statement prior to the time of purchase in the form substantially as follows:

ANNUITIES DISCLOSURE FORM

It is important to us that you understand that an annuity is different from other investments you may purchase from _____ Bank. Please consider the following factors when purchasing an annuity.

* The annuity product is an obligation of the _____ insurance company only. It is not an obligation of _____ Bank or its subsidiaries or affiliated companies.

* The annuity product is not insured by the Federal Deposit Insurance Corporation ("FDIC") or any other federal or state agency.

* Early withdrawals from your annuity may be subject to surrender charges, taxation as ordinary income, and an additional nondeductible excise tax.

You are encouraged to consult with a tax advisor familiar with your individual situation and needs in order to determine the federal, state, local and other tax consequences associated with annuities.

By signing below, you certify that you have read and understand the information contained in this disclosure.

Date: _____

Purchaser's Signature

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121, 6:242 and 6:5.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 19: (May 1993).

Larry L. Murray
Commissioner

RULE

Department of Economic Development Office of Financial Institutions

Self-Help Repossession (LAC 10:V.Chapter 7)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority granted under R.S. 6:966(J)(3)(e), the Department of Economic Development, Commissioner of Financial Institutions, hereby adopts a rule pertaining to Self-Help Repossession, LAC 10:V.Chapter 7, the text of which can be viewed in the emergency rule section of this May, 1993 *Louisiana Register*. The rule provides for the implementation of procedures for applications for, issuance of, renewal of, and revocation of a license as self-help repossession agency.

Larry L. Murray
Commissioner

RULE

Department of Economic Development Racing Commission

Corrupt and Prohibited Practices (LAC 35:I.Chapter 17)

The Racing Commission has adopted/amended the following rule in accordance with law. The Racing Commission has found it necessary to amend/adopt this rule to be consistent with other states' rules concerning permitted medication in two-year-old horses, and to conform to penalty guidelines established by the Association of Racing Commissioners International, Inc.

Title 35

HORSE RACING

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1722. Medication in Two-Year-Olds

Notwithstanding anything in any rule of racing, medication,

except bleeder medication, shall not be prescribed, dispensed or administered to a two-year-old horse to be raced or racing, or when there is racing planned for a two-year-old horse, in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 12:11 (January 1986), amended by the Department of Economic Development, Racing Commission LR 19: (May 1993).

§1795. Classification of Foreign Substances by Category

A. Prohibited drugs and prohibited substances are classified in the appropriate one of five classes.

B. Known and identified prohibited drugs and substances are classified and listed according to their appropriate class as defined in the Association of Racing Commissioners International, Inc. Drug Testing and Quality Assurance Program's *Uniform Classification Guidelines for Foreign Substances*.

C. Unknown or unidentified drugs or substances which are prohibited but not listed shall be appropriately classified by the state chemist upon discovery or detection. A supplemental listing of the appropriate classification of such discovered or detected drugs shall be maintained at the domicile office and be made available to the public upon request. A prohibited drug or substance remains prohibited regardless of whether it is listed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19: (May 1993).

§1797. Penalty Guidelines

A. Upon finding a violation by a permittee of prohibited medication rules, of prohibited substance rules, or of improper or excessive use of permitted medications, the stewards, or the commission, shall consider the classification level as set forth in §1795 and will, in the absence of mitigating or aggravating circumstances, endeavor to impose penalties and disciplinary measures consistent with the recommended guidelines contained herein. Whenever a majority of the stewards find or conclude that there are mitigating or aggravating circumstances, they should so state in their ruling such finding or conclusion, and should impose the penalty which they find is appropriate under the circumstances to the extent of their authority or, if necessary, refer the matter to the commission with specific recommendations for further action.

B. The recommended guidelines for a violation of each classification level are as follows:

1. *Class I:* suspension of license for a period of not less than one year and not more than five years and a fine of \$5,000. The purse shall be redistributed.

2. *Class II:* suspension of license for a period of not less than six months and not more than one year and a fine of not less than \$1,500 and not more than \$2,500. The purse shall be redistributed.

3. *Class III:* suspension of license for a period of not less than sixty days and not more than six months and/or a fine of not more than \$1,500. The purse shall be redistributed.

4. Classes IV and V:

a. on a first violation within a 12-month period, a fine of \$200;

b. on a second violation within a 12-month period, a fine of \$500;

c. on a third or subsequent violation within a 12-month period:

i. suspension of license;

ii. fine of \$1,500;

iii. order the purse redistributed; and

iv. refer the permittee to the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission LR 19: (May 1993).

Oscar J. Tolmas
Chairman

RULE

Department of Economic Development Racing Commission

Designated Race (LAC 46:XLI.749)

The Racing Commission hereby gives notice in accordance with law that it has adopted the following rule.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLI. Horseracing Occupations

Chapter 7. Jockeys and Apprentice Jockeys

§749. Designated Race

A. Before the opening day of a race meeting the executive director and the stewards shall designate the added money or guaranteed stakes races or related qualifying trial races, subject to ratification by the commission, at the race meeting in which a jockey will be permitted to compete, notwithstanding the fact that the jockey is under suspension for 10 days or less for a riding infraction at the time the designated race is to be run.

B. Official rulings for riding infractions of 10 days or less must state "...The term of this suspension does not prohibit participation in designated races."

C. The stewards shall post a listing of the designated races in the jockeys' room, racing office and any other place determined to be appropriate by the stewards.

D. A suspended jockey must be named at the time of entry to participate in any designated race.

E. A day in which a jockey participated in one designated race while on suspension does not count as a suspension day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Racing Commission, LR 19: (May 1993).

Oscar J. Tolmas
Chairman

RULE

**Department of Economic Development
Racing Commission**

**Permitted Medication in Two-Year-Old Horses
(LAC 35:I.1503,1511)**

The Racing Commission has amended/adopted the following rule in accordance with law. The Racing Commission has found it necessary to amend/adopt this rule to be consistent with other states' rules concerning permitted medication in two-year-old horses.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 15. Permitted Medication

§1503. Two-year-olds

The only "Permitted Medication" for two-year olds for racing shall be bleeder medication as defined in §1509. The presence of any other "Permitted Medication" or of any drug or substance in the blood or urine specimen of a two-year old horse, regardless of the level thereof, shall be prima facie evidence of the presence of such medication or drug and a violation of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 2:451 (December 1976), repromulgated LR 4:289 (August 1978), amended LR 6:620 (December 1981), LR 9:547 (August 1983), amended by Department of Economic Development, Racing Commission LR 19: (May 1993).

§1511. Violations of Permitted Medication Rules

After notice and hearing, any person found to have violated the provisions of the permitted medication rule may be punished by fine, and/or suspension, and/or revocation of his/her license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission LR 6:174 (May 1980), amended LR 9:548 (August 1983), amended by the Department of Economic Development, Racing Commission LR 16:765 (September 1990), LR 19: (May 1993).

Oscar J. Tolmas
Chairman

RULE

Board of Elementary and Secondary Education

**Bulletin 1822—Competency Based Postsecondary
Curriculum Guides**

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 adopted

revisions to titles and lengths of programs printed in Bulletin 1822, Competency Based Postsecondary Curriculum Guides as stated below:

CURRENTLY APPROVED

TITLE	LENGTH
Auto Body Repair	2025 hrs., 18 mo.
Automotive Technician	2700 hrs., 24 mo.
Computer Technology	2363 hrs., 21 mo.
Diesel Mechanics	2700 hrs., 24 mo.
Electrician	1688 hrs., 15 mo.
Industrial Machine Shop	1800 hrs., 16 mo.
Welding	2025 hrs., 18 mo.
Child Care	1350 hrs., 12 mo.

ADOPTED REVISION

TITLE	LENGTH
Collision Repair Technology	1872 hrs., 18 mo.
Automotive Technology	2496 hrs., 24 mo.
Computer Technology	2496 hrs., 24 mo.
Diesel Mechanics	2496 hrs., 24 mo.
Electrician	1688 hrs., 16 mo.
Industrial Machine Shop	1872 hrs., 18 mo.
Welding	1872 hrs., 18 mo.
Child Care	1248 hrs., 12 mo.

NEW INSTRUCTOR GUIDES

Building Maintenance	936 hrs., 9 mo.
Commercial Diving	360 hrs., 12 wks.
Golf Course Technician	1416 hrs. 12 mo.

AUTHORITY NOTE: R.S. 17:7

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 19: (May 1993).

Carole Wallin
Executive Director

RULE

Board of Elementary and Secondary Education

**Revocation of Teaching Certificate for a Felony Offense
(LAC 28:I.903)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement, an amendment to its Policy on Revocation of Teaching Certificate for a Felony Offense. This is also an amendment to LAC 28:I.903.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 9. Bulletins, Regulations, and State Plans**

§903. Teacher Certification Standards and Regulations

* * *

E. Revocation of Certificates

1. Revocation for a Felony Offense

* * *

d. 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.

* * *

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

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 19: (May 1993).

Carole Wallin
Executive Director

RULE

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

Municipal Waste Combustors (LAC 33:III.3175) (AQ63)

Under the authority of the Environmental Quality Act, particularly R.S. 30:2054 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted LAC 33:III.3175 (AQ63).

This rule is identical to 40 CFR 60, Subpart Ea with changes to the outline and internal references to match the Louisiana Administrative Code (LAC). The rule does not deviate from the CFR except for the above referenced format. The rule defines the emission standards for Municipal Waste Combustors including continuous emission monitoring, test methods and procedures, and recordkeeping and reporting requirements.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 31. Standards of Performance for New Stationary Sources

§3175. Standards of Performance for Municipal Waste Combustors (Subpart Ea)

A. Applicability and Delegation of Authority

1. The affected facilities to which this Section applies are all MWC (municipal waste combustor) units with an MWC unit capacity greater than 225 megagrams per day (250 tons per day) of MSW (municipal-type solid waste) or RDF (refuse-derived fuel) for which construction, modification, or reconstruction is commenced after December 20, 1989.

2. Reserved.

3. Affected facilities that combust tires or fuel derived solely from tires and that combust no other MSW or RDF are exempt from all provisions of this Section except the initial report required under Subsection J.1 of this Section.

4. Cofired combustors, as defined in Subsection B of this Section, are exempt from all provisions of this Section except

the initial report required under Subsection J.1 of this Section, and records and reports of the daily weight of MSW or RDF and other fuels as required under Subsection J.2.n and 13 of this Section.

5. Cofired combustors that are subject to a federally-enforceable permit limiting operation of the combustor to no more than 225 megagrams per day (250 tons per day) of MSW or RDF are exempt from all provisions of this Section.

6. Physical or operational changes made to an existing MWC unit solely to comply with emission guidelines under Subpart Ca (40 CFR Part 60, 60.30a through 60.39a) are not considered a modification or reconstruction and do not bring an existing MWC unit under this Section.

7. Municipal waste combustors combusting medical waste combined with other MSW are subject to all provisions of this Section. Units combusting solely medical waste are not covered by this Section.

8. This Section shall become effective on date of promulgation.

B. Definitions

Terms used in this Section are defined in LAC 33:III.111 or LAC 33:III.3103, except those terms specifically defined in this Section as follows:

ASME—the American Society of Mechanical Engineers.

Batch MWC—an MWC unit designed such that it cannot combust MSW continuously 24 hours per day because the design does not allow waste to be fed to the unit or ash to be removed while combustion is occurring.

Bubbling Fluidized Bed Combustor—a fluidized bed combustor in which the majority of the bed material remains in a fluidized state in the primary combustion zone.

Chief Facility Operator—the person in direct charge and control of the operation of an MWC and who is responsible for daily on-site supervision, technical direction, management, and overall performance of the facility.

Circulating Fluidized Bed Combustor—a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

Coal/RDF Mixed Fuel Fired Combustor—a combustor that fires coal and RDF simultaneously.

Cofired Combustor—a unit combusting MSW or RDF with a non-MSW fuel and subject to a federally enforceable permit limiting the unit to combusting a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of MSW or RDF as measured on a 24-hour daily basis. A unit combusting a fuel feed stream, more than 30 percent of the weight of which is comprised, in aggregate, of MSW or RDF shall be considered an MWC unit and not a cofired combustor. Cofired combustors which fire less than 30 percent segregated medical waste are not covered by this Section.

Continuous Emission Monitoring System or CEMS—a monitoring system for continuously measuring the emissions of a pollutant from an affected facility.

Dioxin/Furan—total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

Federally-enforceable—all limitations and conditions that are enforceable by the administrator including the requirements of 40 CFR Parts 60 and 61, requirements within any applicable state implementation plan, and any permit requirements established under 40 CFR 52.21 or under 40 CFR 51.18 and 40 CFR 51.24.

Four-hour Block Average or 4-hour Block Average—the average of all hourly emission rates when the affected facility is operating and combusting MSW measured over four-hour periods of time from 12 midnight to 4 a.m., 4 a.m. to 8 a.m., 8 a.m. to 12 noon, 12 noon to 4 p.m., 4 p.m. to 8 p.m., and 8 p.m. to 12 midnight.

Large MWC Plant—an MWC plant with an MWC plant capacity greater than 225 megagrams per day (250 tons per day) of MSW.

Mass Burn Refractory MWC—a combustor that combusts MSW in a refractory wall furnace. This does not include rotary combustors without waterwalls.

Mass Burn Rotary Waterwall MWC—a combustor that combusts MSW in a cylindrical rotary waterwall furnace. This does not include rotary combustors without waterwalls.

Maximum Demonstrated Particulate Matter Control Device Temperature—the maximum four-hour block average temperature measured at the final particulate matter control device inlet during the most recent dioxin/furan test demonstrating compliance with the applicable standard for MWC organics specified under Subsection D of this Section. If more than one particulate matter control device is used in series at the affected facility, the maximum four-hour block average temperature is measured at the final particulate matter control device.

Maximum Demonstrated MWC Unit Load—the maximum four-hour block average MWC unit load achieved during the most recent dioxin/furan test demonstrating compliance with the applicable standard for MWC organics specified under Subsection D of this Section.

Medical Waste—any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in production or testing of biologicals. Medical waste does not include any hazardous waste identified under Subtitle C of the Resource Conservation and Recovery Act or any household waste as defined in regulations under Subtitle C of the Resource Conservation and Recovery Act.

Modular Excess Air MWC—a combustor that combusts MSW and that is not field-erected and has multiple combustion chambers, all of which are designed to operate at conditions with combustion air amounts in excess of theoretical air requirements.

Modular Starved Air MWC—a combustor that combusts MSW and that is not field-erected and has multiple combustion chambers in which the primary combustion chamber is designed to operate at substoichiometric conditions.

Municipal-type Solid Waste or MSW—household, commercial/retail, and/or institutional waste. Household waste includes material discarded by single and multiple residential dwellings, hotels, motels, and other similar permanent or temporary housing establishments or facilities. Commercial/retail waste includes material discarded by stores,

offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other similar establishments or facilities. Institutional waste includes material discarded by schools, hospitals, nonmanufacturing activities at prisons and government facilities and other similar establishments or facilities. Household, commercial/retail, and institutional waste do not include sewage, wood pallets, construction and demolition wastes, industrial process or manufacturing wastes, or motor vehicles (including motor vehicles parts or vehicle fluff). Municipal-type solid waste does include motor vehicle maintenance materials, limited to vehicle batteries, used motor oil, and tires. Municipal-type solid waste does not include wastes that are solely segregated medical waste. However, any mixture of segregated medical wastes and other wastes which contains more than 30 percent medical waste discards, is considered to be municipal-type solid waste.

Municipal Waste Combustor or MWC or MWC Unit—any device that combusts solid, liquid, or gasified MSW including, but not limited to, field-erected incinerators (with or without heat recovery), modular incinerators (starved air or excess air), boilers (i.e., steam generating units), furnaces (whether suspension-fired, grate-fired, mass-fired, or fluidized bed-fired) and gasification/combustion units. This does not include combustion units, engines, or other devices that combust landfill gases collected by landfill gas collection systems.

MWC Acid Gases—all acid gases emitted in the exhaust gases from MWC units including, but not limited to, sulfur dioxide and hydrogen chloride gases.

MWC Metals—metals and metal compounds emitted in the exhaust gases from MWC units.

MWC Organics—organic compounds emitted in the exhaust gases from MWC units and includes total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.

MWC Plant—one or more MWC units at the same location for which construction, modification, or reconstruction is commenced after December 20, 1989.

MWC Plant Capacity—the aggregate MWC unit capacity of all MWC units at an MWC plant for which construction, modification, or reconstruction commenced after December 20, 1989. Any MWC units for which construction, modification, or reconstruction is commenced on or before December 20, 1989, are not included for determining applicability under this Section.

MWC Unit Capacity—the maximum design charging rate of an MWC unit expressed in megagrams per day (tons per day) of MSW combusted, calculated according to the procedures in Subsection I.10 of this Section. Municipal waste combustor unit capacity is calculated using a design heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound) for MSW and 19,800 kilojoules per kilogram (8,500 British thermal units per pound) for medical waste. The calculational procedures under Subsection I.10 of this Section include procedures for determining MWC unit capacity for batch MWCs and cofired combustors and combustors firing mixtures of medical waste and other MSW.

Particulate Matter—total particulate matter emitted from MWC units as measured by LAC 33:III.6015 (see Subsection I of this Section).

Potential Hydrogen Chloride Emission Rate—the hydrogen chloride emission rate that would occur from combustion of MSW in the absence of any hydrogen chloride emissions control.

Potential Sulfur Dioxide Emission Rate—the sulfur dioxide emission rate that would occur from combustion of MSW in the absence of any sulfur dioxide emissions control.

Refuse-derived Fuel or RDF—a type of MSW produced by processing MSW through shredding and size classification. This includes all classes of RDF including low density fluff RDF through densified RDF and RDF fuel pellets.

RDF Stoker—a steam generating unit that combusts RDF in a semi-suspension firing mode using air-fed distributors.

Same Location—the same or contiguous property that is under common ownership or control, including properties that are separated only by a street, road, highway, or other public right-of-way. Common ownership or control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, subdivision, and any combination thereof, including any municipality or other governmental unit, or any quasigovernmental authority (e.g., a public utility district or regional waste disposal authority).

Shift Supervisor—the person in direct charge and control of the operation of an MWC and who is responsible for on-site supervision, technical direction, management, and overall performance of the facility during an assigned shift.

Standard Conditions—a temperature of 293° Kelvin (68° Fahrenheit) and a pressure of 101.3 kilopascals (29.92 inches of mercury).

Twenty-four Hour Daily Average or 24-hour Daily Average—the arithmetic or geometric mean (as specified in Subsection I.5, 7, or 8 of this Section as applicable) of all hourly emission rates when the affected facility is operating and firing MSW measured over a 24-hour period between 12 midnight and the following midnight.

C. Standard for Municipal Waste Combustor Metals

1. On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility located within a large MWC plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain particulate matter in excess of 34 milligrams per dry standard cubic meter (0.015 grains per dry standard cubic foot), corrected to seven percent oxygen (dry basis).

2. On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility subject to the particulate matter emission limit under Subsection C.1 of this Section shall cause to be discharged into the atmosphere from that affected facility any gases that exhibit greater than 10 percent opacity (six-minute average).

D. Standard for Municipal Waste Combustor Organics

1. Reserved.

2. On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility located within a large MWC plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain dioxin/furan emissions that exceed 30 nanograms per dry

standard cubic meter (12 grains per billion dry standard cubic feet), corrected to seven percent oxygen (dry basis).

E. Standard for Municipal Waste Combustor Acid Gases

1. Reserved.

2. Reserved.

3. On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility located within a large MWC plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain sulfur dioxide in excess of 20 percent of the potential sulfur dioxide emission rate (80 percent reduction by weight or volume) or 30 parts per million by volume, corrected to seven percent oxygen (dry basis), whichever is less stringent. The averaging time is specified in Subsection I.5 of this Section.

4. On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility located within a large MWC plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain hydrogen chloride in excess of five percent of the potential hydrogen chloride emission rate (95 percent reduction by weight or volume) or 25 parts per million by volume, corrected to seven percent oxygen (dry basis), whichever is less stringent.

F. Standard for Nitrogen Oxides

On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility located within a large MWC plant shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides in excess of 180 parts per million by volume, corrected to seven percent oxygen (dry basis). The averaging time is specified under Subsection I.7 of this Section.

G. Standards for Municipal Waste Combustor Operating Practices

1. On and after the date on which the initial compliance test is completed or is required to be completed under LAC 33:III.3115, no owner or operator of an affected facility located within a large MWC plant shall cause such facility to exceed the carbon monoxide standards shown in Table 1.

MWC Technology	Carbon monoxide emission limit (parts per million by volume) ¹
Mass burn waterwall	100
Mass burn refractory	100
Mass burn rotary waterwall	100
Modular starved air	50
Modular excess air	50
RDF stoker	150
Bubbling fluidized bed combustor	100
Circulating fluidized bed combustor	100
Coal/RDF mixed fuel fired combustors	150

¹Measured at the combustor outlet in conjunction with a measurement of oxygen concentration, corrected to seven percent oxygen (dry basis). The averaging times are specified in Subsection I.8 of this Section.

2. No owner or operator of an affected facility located within a large MWC plant shall cause such facility to operate at a load level greater than 110 percent of the maximum demonstrated MWC unit load as defined in Subsection B of this Section. The averaging time is specified under Subsection I.8 of this Section.

3. No owner or operator of an affected facility located within a large MWC plant shall cause such facility to operate at a temperature, measured at the final particulate matter control device inlet, exceeding 17° Centigrade (30° Fahrenheit) above the maximum demonstrated particulate matter control device temperature as defined in Subsection B of this Section. The averaging time is specified under Subsection I.8 of this Section.

4. Within 24 months from the date of start-up of an affected facility or before February 11, 1993, whichever is later, each chief facility operator and shift supervisor of an affected facility located within a large MWC plant shall obtain and keep current either a provisional or operator certification in accordance with ASME QRO-1-1989 (incorporated by reference, see 40 CFR 60.17) or an equivalent state-approved certification program.

5. No owner or operator of an affected facility shall allow such affected facility located at a large MWC plant to operate at any time without a certified shift supervisor, as provided under Subsection G.4 of this Section, on duty at the affected facility. This requirement shall take effect 24 months after the date of start-up of the affected facility or on and after February 11, 1993, whichever is later.

6. The owner or operator of an affected facility located within a large MWC plant shall develop and update on a yearly basis a site specific operating manual that shall, at a

minimum, address the following elements of MWC unit operation:

- a. summary of the applicable standards under this Section;
- b. description of basic combustion theory applicable to an MWC unit;
- c. procedures for receiving, handling, and feeding MSW;
- d. MWC unit start-up, shutdown, and malfunction procedures;
- e. procedures for maintaining proper combustion air supply levels;
- f. procedures for operating the MWC unit within the standards established under this Section;
- g. procedures for responding to periodic upset or off-specification conditions;
- h. procedures for minimizing particulate matter carryover;
- i. procedures for monitoring the degree of MSW burnout;
- j. procedures for handling ash;
- k. procedures for monitoring MWC unit emissions; and
- l. reporting and recordkeeping procedures.

7. The owner or operator of an affected facility located within a large MWC plant shall establish a program for reviewing the operating manual annually with each person who has responsibilities affecting the operation of an affected facility including, but not limited to, chief facility operators, shift supervisors, control room operators, ash handlers, maintenance personnel, and crane/load handlers.

8. The initial review of the operating manual, as specified under Subsection G.7 of this Section, shall be conducted prior to assumption of responsibilities affecting MWC unit operation by any person required to undergo training under Subsection G.7 of this Section. Subsequent reviews of the manual shall be carried out annually by each such person.

9. The operating manual shall be kept in a readily accessible location for all persons required to undergo training under Subsection G.7 of this Section. The operating manual and records of training shall be available for inspection by DEQ.

H. Reserved.

I. Compliance and Performance Testing

1. The standards under this Section apply at all times, except during periods of start-up, shutdown, or malfunction; provided, however, that the duration of start-up, shutdown, or malfunction shall not exceed three hours per occurrence.

a. The start-up period commences when the affected facility begins the continuous burning of MSW and does not include any warm-up period when the affected facility is combusting only a fossil fuel or other non-MSW fuel and no MSW is being combusted.

b. Continuous burning is the continuous, semicontinuous, or batch feeding of MSW for purposes of waste disposal, energy production, or providing heat to the combustion system in preparation for waste disposal or energy production. The use of MSW solely to provide thermal protection of grate or hearth during the start-up period shall not be considered to be continuous burning.

2. The following procedures and test methods shall be used to determine compliance with the emission limits for particulate matter under Subsection C of this Section:

a. Method 1 (LAC 33:III.6001) shall be used to select sampling site and number of traverse points.

b. Method 3 (LAC 33:III.6009) shall be used for gas analysis.

c. Method 5 (LAC 33:III.6015) shall be used for determining compliance with the particulate matter emission standard. The minimum sample volume shall be 1.7 cubic meters (60 cubic feet). The probe and filter holder heating systems in the sample train shall be set to provide a gas temperature no greater than $160^{\circ} \pm 14^{\circ}$ Centigrade ($320^{\circ} \pm 25^{\circ}$ Fahrenheit). An oxygen or carbon dioxide measurement shall be obtained simultaneously with each Method 5 (LAC 33:III.6015) run.

d. For each Method 5 (LAC 33:III.6015) run, the emission rate shall be determined using:

i. oxygen or carbon dioxide measurements;

ii. dry basis F factor; and

iii. dry basis emission rate calculation procedures in Method 19 (LAC 33:III.6073).

e. An owner or operator may request that compliance be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial compliance test.

f. The owner or operator of an affected facility shall conduct an initial compliance test for particulate matter and opacity as required under LAC 33:III.3115.

g. Method 9 (LAC 33:III.6049) shall be used for determining compliance with the opacity limit.

h. The owner or operator of an affected facility shall install, calibrate, maintain, and operate a CEMS for measuring opacity and record the output of the system on a six-minute average basis.

i. Following the date the initial compliance test for particulate matter is completed or required to be completed under LAC 33:III.3115 for an affected facility located within a large MWC plant; the owner or operator shall conduct a performance test for particulate matter on an annual basis (no more than 12 calendar months following the previous compliance test).

3. Reserved.

4. The following procedures and test methods shall be used to determine compliance with the limits for dioxin/furan emissions under Subsection D of this Section:

a. Method 23 (LAC 33:III.6081) shall be used for determining compliance with the dioxin/furan emission limits. The minimum sample time shall be four hours per test run.

b. The owner or operator of an affected facility shall conduct an initial compliance test for dioxin/furan emissions as required under LAC 33:III.3115.

c. Following the date of the initial compliance test or the date on which the initial compliance test is required to be completed under LAC 33:III.3115, the owner or operator of an affected facility located within a large MWC plant shall conduct a performance test for dioxin/furan emissions on an

annual basis (no more than 12 calendar months following the previous compliance test).

d. Reserved.

e. An owner or operator may request that compliance with the dioxin/furan emissions limit be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial compliance test.

5. The following procedures and test methods shall be used for determining compliance with the sulfur dioxide limit under Subsection E of this Section:

a. Method 19, LAC 33:III.6073.E.4, shall be used to determine daily geometric average percent reduction in the potential sulfur dioxide emission rate.

b. Method 19, LAC 33:III.6073.D.3, shall be used to determine the daily geometric average sulfur dioxide emission rate.

c. An owner or operator may request that compliance with the sulfur dioxide emissions limit be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial compliance test.

d. The owner or operator of an affected facility shall conduct an initial compliance test for sulfur dioxide as required under LAC 33:III.3115. Compliance with the sulfur dioxide emission limit and percent reduction is determined by using a CEMS to measure sulfur dioxide and calculating a 24-hour daily geometric mean emission rate and daily geometric mean percent reduction using Method 19, LAC 33:III.6073.D.3 and E.4, as applicable, except as provided under Subsection I.5.e of this Section.

e. For batch MWCs or MWC units that do not operate continuously, compliance shall be determined using a daily geometric mean of all hourly average values for the hours during the day that the affected facility is combusting MSW.

f. The owner or operator of an affected facility shall install, calibrate, maintain, and operate a CEMS for measuring sulfur dioxide emissions discharged to the atmosphere and record the output of the system.

g. Following the date of the initial compliance test or the date on which the initial compliance test is required to be completed under LAC 33:III.3115, compliance with the sulfur dioxide emission limit or percent reduction shall be determined based on the geometric mean of the hourly arithmetic average emission rates during each 24-hour daily period measured between 12 midnight and the following midnight using: CEMS inlet and outlet data, if compliance is based on a percent reduction; or CEMS outlet data only if compliance is based on an emission limit.

h. At a minimum, valid CEMS data shall be obtained for 75 percent of the hours per day for 75 percent of the days per month the affected facility is operated and combusting MSW.

i. The one-hour arithmetic averages required under Subsection I.5.g of this Section shall be expressed in parts per million (dry basis) and used to calculate the 24-hour daily geometric mean emission rates. The one-hour arithmetic

averages shall be calculated using the data points required under LAC 33:III.3125. At least two data points shall be used to calculate each one-hour arithmetic average.

j. All valid CEMS data shall be used in calculating emission rates and percent reductions even if the minimum CEMS data requirements of Subsection I.5.h of this Section are not met.

k. The procedures under LAC 33:III.3125 shall be followed for installation, evaluation, and operation of the CEMS.

l. The CEMS shall be operated according to Performance Specifications 1, 2 and 3 (LAC 33:III.6103, 6105 and 6107).

m. Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with Procedure 1 (40 CFR Part 60, Appendix F).

n. The span value of the CEMS at the inlet to the sulfur dioxide control device is 125 percent of the maximum estimated hourly potential sulfur dioxide emissions of the MWC unit, and the span value of the CEMS at the outlet to the sulfur dioxide control device is 50 percent of the maximum estimated hourly potential sulfur dioxide emissions of the MWC unit.

o. When sulfur dioxide emissions data are not obtained because of CEMS breakdowns, repairs, calibration checks and zero and span adjustments, emissions data shall be obtained by using other monitoring systems as approved by the administrative authority or Method 19 (LAC 33:III.6073) to provide as necessary valid emission data for a minimum of 75 percent of the hours per day for 75 percent of the days per month the unit is operated and combusting MSW.

p. Not operating a sorbent injection system for the sole purpose of testing in order to demonstrate compliance with the percent reduction standards for MWC acid gases shall not be considered a physical change in the method of operation under 40 CFR 52.21, or under regulations approved pursuant to 40 CFR 51.166 or 40 CFR 51.165(a) and (b).

6. The following procedures and test methods shall be used for determining compliance with the hydrogen chloride limits under Subsection E of this Section.

a. The percentage reduction in the potential hydrogen chloride emissions (% P_{HCl}) is computed using the following formula:

$$\%P_{HCl} = \frac{(E_i - E_o)}{E_i} \times 100$$

where:

E_i = the potential hydrogen chloride emission rate.

E_o = the hydrogen chloride emission rate measured at the outlet of the acid gas control device.

b. Method 26 (LAC 33:III.6088) shall be used for determining the hydrogen chloride emission rate. The minimum sampling time for Method 26 shall be one hour.

c. An owner or operator may request that compliance with the hydrogen chloride emissions limit be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and

carbon dioxide levels for the affected facility shall be established during the initial compliance test.

d. The owner or operator of an affected facility shall conduct an initial compliance test for hydrogen chloride as required under LAC 33:III.3115.

e. Following the date of the initial compliance test or the date on which the initial compliance test is required under LAC 33:III.3115, the owner or operator of an affected facility located within a large MWC plant shall conduct a performance test for hydrogen chloride on an annual basis (no more than 12 calendar months following the previous compliance test).

f. Reserved.

g. Not operating a sorbent injection system for the sole purpose of testing in order to demonstrate compliance with the percent reduction standards for MWC acid gases shall not be considered a physical change in the method of operation under 40 CFR 52.21, or under regulations approved pursuant to 40 CFR 51.166 or 40 CFR 51.165(a) and (b).

7. The following procedures and test methods shall be used to determine compliance with the nitrogen oxides limit under Subsection F of this Section:

a. Method 19, LAC 33:III.6073.D.1, shall be used for determining the daily arithmetic average nitrogen oxides emission rate.

b. An owner or operator may request that compliance with the nitrogen oxides emissions limit be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial compliance test.

c. The owner or operator of an affected facility subject to the nitrogen oxides limit under Subsection F of this Section shall conduct an initial compliance test for nitrogen oxides as required under LAC 33:III.3115. Compliance with the nitrogen oxides emission standard shall be determined by using a CEMS for measuring nitrogen oxides and calculating a 24-hour daily arithmetic average emission rate using Method 19, LAC 33:III.6073.D.1, except as specified under Subsection I.7.d of this Section.

d. For batch MWCs or MWCs that do not operate continuously, compliance shall be determined using a daily arithmetic average of all hourly average values for the hours during the day that the affected facility is combusting MSW.

e. The owner or operator of an affected facility subject to the nitrogen oxides emissions limit under Subsection F of this Section shall install, calibrate, maintain, and operate a CEMS for measuring nitrogen oxides discharged to the atmosphere and record the output of the system.

f. Following the initial compliance test or the date on which the initial compliance test is required to be completed under LAC 33:III.3115, compliance with the emission limit for nitrogen oxides required under Subsection F of this Section shall be determined based on the arithmetic average of the arithmetic average hourly emission rates during each 24-hour daily period measured between 12 midnight and the following midnight using CEMS data.

g. At a minimum valid CEMS data shall be obtained for 75 percent of the hours per day for 75 percent of the days

per month the affected facility is operated and combusting MSW.

h. The one-hour arithmetic averages required by Subsection I.7.f of this Section shall be expressed in parts per million volume (dry basis) and used to calculate the 24-hour daily arithmetic average emission rates. The one-hour arithmetic averages shall be calculated using the data points required under LAC 33:III.3125.B. At least two data points shall be used to calculate each one-hour arithmetic average.

i. All valid CEMS data must be used in calculating emission rates even if the minimum CEMS data requirements of Subsection I.7.g of this Section are not met.

j. The procedures under LAC 33:III.3125 shall be followed for installation, evaluation, and operation of the CEMS.

k. Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with Procedure 1 (40 CFR Part 60, Appendix F).

l. When nitrogen oxides emissions data are not obtained because of CEMS breakdowns, repairs, calibration checks, and zero and span adjustments, emission data calculations to determine compliance shall be made using other monitoring systems as approved by the administrative authority or Method 19 (LAC 33:III.6073) to provide as necessary valid emission data for a minimum of 75 percent of the hours per day for 75 percent of the days per month the unit is operated and combusting MSW.

8. The following procedures shall be used for determining compliance with the operating standards under Subsection G of this Section:

a. Compliance with the carbon monoxide emission limits in Subsection G.1 of this Section shall be determined using a four-hour block arithmetic average for all types of affected facilities except mass burn rotary waterwall MWCs and RDF stokers.

b. For affected mass burn rotary waterwall MWCs and RDF stokers, compliance with the carbon monoxide emission limits in Subsection G.1 of this Section shall be determined using a 24-hour daily arithmetic average.

c. The owner or operator of an affected facility shall install, calibrate, maintain, and operate a CEMS for measuring carbon monoxide at the combustor outlet and record the output of the system.

d. The four-hour and 24-hour daily arithmetic averages in Subsections I.8.a and b of this Section shall be calculated from one-hour arithmetic averages expressed in parts per million by volume (dry basis). The one-hour arithmetic averages shall be calculated using the data points generated by the CEMS. At least two data points shall be used to calculate each one-hour arithmetic average.

e. An owner or operator may request that compliance with the carbon monoxide emission limit be determined using carbon dioxide measurements corrected to an equivalent of seven percent oxygen. The relationship between oxygen and carbon dioxide levels for the affected facility shall be established during the initial compliance test.

f. The following procedures shall be used to determine compliance with load level requirements under Subsection G.2 of this Section:

i. The owner or operator of an affected facility with steam generation capability recovery shall install, calibrate, maintain, and operate a steam flow meter and measure steam flow in kilograms per hour (pounds per hour) steam on a continuous basis and record the output of the monitor. Steam flow shall be calculated in four-hour block arithmetic averages.

ii. The method contained in ASME Power Test Codes: Test Code for Steam Generating Units, PTC 4.1 (1972), Section 4 (incorporated by reference, see 40 CFR 60.17) shall be used for calculating the steam flow required under Subsection I.8.f.i of this Section. The recommendations of Instruments and Apparatus: Measurement of Quantity of Materials, ASME Interim Supplement 19.5 (1971), Chapter 4 (incorporated by reference, see 40 CFR 60.17) shall be followed for design, construction, installation, calibration, and use of nozzles and orifices.

g. To determine compliance with the maximum particulate matter control device temperature requirements under Subsection G.3, the owner or operator of an affected facility shall install, calibrate, maintain, and operate a device for measuring temperature of the flue gas stream at the inlet to the final particulate matter control device on a continuous basis and record the output of the device. Temperature shall be calculated in four-hour block arithmetic averages.

h. Maximum demonstrated MWC unit load shall be determined during the initial compliance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit under Subsection D of this Section is achieved. Maximum demonstrated MWC unit load shall be the maximum four-hour arithmetic average load achieved during the most recent test during which compliance with the dioxin/furan limit was achieved.

i. The maximum demonstrated particulate matter control device temperature shall be determined during the initial compliance test for dioxins/furans and each subsequent performance test during which compliance with the dioxin/furan emission limit under Subsection D of this Section is achieved. Maximum demonstrated particulate matter control device temperature shall be the maximum four-hour arithmetic average temperature achieved at the final particulate matter control device inlet during the most recent test during which compliance with the dioxin/furan limit was achieved.

j. At a minimum, valid CEMS data for carbon monoxide, steam flow, and particulate matter control device inlet temperature shall be obtained 75 percent of the hours per day for 75 percent of the days per month the affected facility is operated and combusting MSW.

k. All valid data must be used in calculating the parameters specified under Subsection I.8 of this Section even if the minimum data requirements of Subsection I.8.j of this Section are not met.

l. Quarterly accuracy determinations and daily calibration drift tests for carbon monoxide CEMS shall be performed in accordance with Procedure 1 (40 CFR Part 60, Appendix F).

9. Reserved.

10. The following procedures shall be used for calculating MWC unit capacity as defined under Subsection B of this Section:

a. For MWC units capable of combusting MSW continuously for a 24-hour period, MWC unit capacity, in megagrams per day (tons per day) of MSW combusted, shall be calculated based on 24 hours of operation at the maximum design charging rate. The design heating values under Subsection I.10.d of this Section shall be used in calculating the design charging rate.

b. For batch MWC units, MWC unit capacity, in megagrams per day (tons per day) of MSW combusted, shall be calculated as the maximum design amount of MSW that can be charged per batch multiplied by the maximum number of batches that could be processed in a 24-hour period. The maximum number of batches that could be processed in a 24-hour period is calculated as 24 hours divided by the design number of hours required to process one batch of MSW, and may include fractional batches¹. The design heating values under Subsection I.10.d of this Section shall be used in calculating the MWC unit capacity in megagrams per day (tons per day) of MSW.

c. For cofired combustors, as defined in Subsection B of this Section, MWC unit capacity is the maximum daily amount of MSW or RDF specified in a state enforceable permit that can be combusted in the cofired combustor, expressed in megagrams per day (tons per day) of MSW.

d. MWC unit capacity shall be calculated using a design heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound) for all MSW except medical waste and 19,800 kilojoules per kilogram (8,500 British thermal units per pound) for medical waste. If an affected MWC unit fires both medical waste and other MSW, either procedure under Subsection I.10.d.i or ii of this Section shall be used to determine the design heating value.

i. The design heating value may be prorated using the following equation:

$$HV_D = 10,500 \frac{MSW}{MSW + Med + 19,800} + \frac{Med}{MSW + Med}$$

where:

HV_D = design heating value in kilojoules per kilogram

MSW = amount of non-medical MSW fired (daily basis)

Med = amount of medical waste fired (daily basis)

If this equation is used, records must be kept of the daily amounts of medical waste and other MSW combusted.

ii. The owner or operator of an affected MWC firing both medical waste and other MSW may elect to assume a design heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound) for all MSW and medical waste fired. If this assumption is used, records of the daily amount of MSW and medical waste combusted are not required to be kept.

¹For example, if one batch requires 16 hours, then 24/16, or 1.5 batches, could be combusted in a 24-hour period.

J. Reporting and Recordkeeping Requirements

1. The owner or operator of an affected facility located at an MWC plant with a capacity greater than 225 megagrams per day (250 tons per day) shall provide notification of intent to construct and of planned initial start-up date and the type(s) of fuels that they plan to combust in the affected facility. The MWC unit capacity and MWC plant capacity and supporting capacity calculations shall be provided at the time of notification of construction.

a. At the time of notification of construction, owners or operators of cofired combustors must provide estimates of the types and amounts of each fuel they plan to combust and the date on which they plan to start combusting MSW or RDF and shall submit a copy of a state-enforceable permit limiting the maximum amount of MSW that may be combusted in the cofired combustor in any single day (midnight to midnight), expressed in percent of the aggregate fuel feed stream by weight.

b. Reserved.

2. The owner or operator of an affected facility located within a small or large MWC plant and subject to the standards under Subsections C, D, E, F, G, or H of this Section shall maintain records of the following information for each affected facility for a period of at least two years:

a. calendar date.

b. the emission rates and parameters measured using CEMS as specified under Subsection J.2.b.i and ii of this Section:

i. the following measurements shall be recorded in computer-readable format and on paper:

(a). all six-minute average opacity levels required under Subsection I.2 of this Section.

(b). all one-hour average sulfur dioxide emission rates at the inlet and outlet of the acid gas control device if compliance is based on a percent reduction, or at the outlet only if compliance is based on the outlet emission limit, as specified under Subsection I.5 of this Section.

(c). all one-hour average nitrogen oxides emission rates as specified under Subsection I.7 of this Section.

(d). all one-hour average carbon monoxide emission rates, MWC unit load measurements, and particulate matter control device inlet temperatures as specified under Subsection I.8 of this Section.

ii. the following average rates shall be computed and recorded:

(a). all 24-hour daily geometric average percent reductions in sulfur dioxide emissions and all 24-hour daily geometric average sulfur dioxide emission rates as specified under Subsection I.5 of this Section.

(b). all 24-hour daily arithmetic average nitrogen oxides emission rates as specified under Subsection I.7 of this Section.

(c). all four-hour block or 24-hour daily arithmetic average carbon monoxide emission rates, as applicable, as specified under Subsection I.8 of this Section.

(d). all four-hour block arithmetic average MWC unit load levels and particulate matter control device inlet temperatures as specified under Subsection I.8 of this Section.

c. identification of the operating days when any of the

average emission rates, percent reductions, or operating parameters specified under Subsection J.2.b.ii of this Section or the opacity level exceeded the applicable limits, with reasons for such exceedances as well as a description of corrective actions taken.

d. identification of operating days for which the minimum number of hours of sulfur dioxide or nitrogen oxides emissions or operational data (carbon monoxide emissions, unit load, particulate matter control device temperature) have not been obtained, including reasons for not obtaining sufficient data and a description of corrective actions taken.

e. identification of the times when sulfur dioxide or nitrogen oxides emission or operational data (carbon monoxide emissions, unit load, particulate matter control device temperature) have been excluded from the calculation of average emission rates or parameters and the reasons for excluding data.

f. the results of daily sulfur dioxide, nitrogen oxides, and carbon monoxide CEMS drift tests and accuracy assessments as required under Appendix F, Procedure 1 (40 CFR Part 60, Appendix F).

g. the results of all annual performance tests conducted to determine compliance with the particulate matter, dioxin/furan and hydrogen chloride limits. For all annual dioxin/furan tests, the maximum demonstrated MWC unit load and maximum demonstrated particulate matter control device temperature shall be recorded along with supporting calculations.

h. Reserved.

i. Reserved.

j. Reserved.

k. Reserved.

l. Reserved.

m. Reserved.

n. for cofired combustors having an MWC unit capacity greater than 225 megagrams per day (250 tons per day) of MSW, the weight of MSW and each other fuel combusted on a daily basis.

o. for combustors firing both medical waste and other MSW, the amount of non-medical MSW and the amount of medical waste combusted on a daily basis, unless it is assumed that the total heat input to the combustor is from MSW with a design heating value of 10,500 kilojoules per kilogram (4,500 British thermal units per pound).

3. Following the initial compliance test as required under LAC 33:III.3115 and Subsection I of this Section, the owner or operator of an affected facility located within a large MWC plant shall submit the initial compliance test data, the performance evaluation of the CEMS using the applicable performance specifications in Appendix B (40 CFR Part 60, Appendix F), and the maximum demonstrated MWC unit load and maximum demonstrated particulate matter control device temperature established during the dioxin/furan compliance test.

4. Reserved.

5. The owner or operator of an affected facility located within a large MWC plant shall submit quarterly compliance reports for sulfur dioxide, nitrogen oxide (if applicable), carbon monoxide, load level, and particulate matter control device

temperature to the administrative authority containing the information recorded under Subsection J.2.a, b.ii, c, d, e and f of this Section for each pollutant or parameter. The hourly average values recorded under Subsection J.2.b.i of this Section are not required to be included in the quarterly reports. Combustors firing a mixture of medical waste and other MSW shall also provide the information under Subsection J.2.o of this Section, as applicable, in each quarterly report. Such reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter.

6. The owner or operator of an affected facility located within a large MWC plant shall submit quarterly excess emission reports, as applicable, for opacity. The quarterly excess emission reports shall include all information recorded under Subsection J.2.c of this Section which pertains to opacity and a listing of the six-minute average opacity levels recorded under Subsection J.2.b.i.(a) of this Section for all periods when such six-minute average levels exceeded the opacity limit under Subsection C of this Section. The quarterly report shall also list the percent of the affected facility operating time for the calendar quarter that the opacity CEMS was operating and collecting valid data. Such excess emission reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter.

7. The owner or operator of an affected facility located within a large MWC plant shall submit reports to the administrative authority of all annual performance tests for particulate matter, dioxin/furan, and hydrogen chloride as recorded under Subsection J.2.g of this Section, as applicable, from the affected facility. For each annual dioxin/furan compliance test, the maximum demonstrated MWC unit load and maximum demonstrated particulate matter control device temperature shall be reported. Such reports shall be submitted when available and in no case later than the date of required submittal of the quarterly report specified under Subsection J.5 of this Section covering the calendar quarter following the quarter during which the test was conducted.

8. Reserved.

9. Records of CEMS data for opacity, sulfur dioxide, nitrogen oxides, and carbon monoxide, load level data, and particulate matter control device temperature data shall be maintained for at least two years after date of recordation and be made available for inspection upon request.

10. Records showing the names of persons who have completed review of the operating manual, including the date of the initial review and all subsequent annual reviews, shall be maintained for at least two years after date of review and be made available for inspection upon request.

11. Reserved.

12. Reserved.

13. The owner or operator of a cofired combustor located within a plant having an MWC plant capacity, as determined under Subsections B and I.10.c of this Section, greater than 225 megagrams per day (250 tons per day) shall submit quarterly reports of the daily weights of MSW and each other fuel fired as recorded under Subsection J.2.n of this Section. Such reports shall be postmarked no later than the thirtieth day following the end of each calendar quarter.

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 19: (May 1993).

James B. Thompson, III
Assistant Secretary

RULE

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

NORM Fee Regulations (LAC 33:XV.Chapter 25) (NE06)

Under the authority of the Environmental Quality Act, particularly 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 Radiation Protection Division regulations, LAC 33:XV.Chapter 25, (NE06).

The rule adds new categories to address specific activities related to NORM. These are: a. gas plants, b. warehouses, c. pipeline, d. pipe yard, e. chemical plant, f. refinery, g. manufacturing plant. The change in revenue (decrease) is expected to provide a more equitable fee system for NORM licensing and reduce the costs of operating stripper wells.

**Title 33
Environmental Quality
Part XV. Radiation Protection
Chapter 25. Fee Schedule**

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance 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
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

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
2. SNM used as calibration or reference sources	260	260
3. All other licenses or 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 jobsite(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 Curies	1,300	1,300
d. Field flood studies and/or tracers equal to or greater than 5 Curies	1,950	1,950
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	3,000	2,500
b. at temporary jobsite(s) of the licensee	3,000	3,000
18. Commercial NORM storage	2,500	2,500

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
19. All other specific industrial licenses except otherwise noted	530	530
20. Commercial NORM treatment involving storage/disposal	12,000	10,000
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
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 (Wellhead fee per field shall not exceed \$1500 per operator.)		
1. 1-5 wellheads (at least one of which is contaminated) per NORM contaminated field	100	100
2. 6-20 wellheads (at least one of which is contaminated) per NORM contaminated field	500	500
3. > 20 wellheads (at least one of which is contaminated) per NORM contaminated field	1,500	1,500
4. Stripper wells-contaminated (\$500 maximum per field)	100	100
5. NORM locations (other than fields) - gas plants, warehouse, pipeline, pipe yard, chemical plant, refinery, manufacturing plant, NORM equipment storage site, etc.	300	300
6. Interim container storage per NORM Waste Management Plan of an approved location		1,000

APPENDIX A RADIATION PROTECTION PROGRAM FEE SCHEDULE		
	Applica- tion Fee	Annual Mainte- nance Fee
7. NORM location as otherwise defined in LAC 33:XV.1403 and not exempted by LAC 33:XV.1404, not included in III.A.1-6 of this Appendix	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		
Testing to determine qualifications of employees, per test administered	128	*
VIII. Nuclear electric generating station (per site) Located in Louisiana		
Located near Louisiana (Plume Exposure Pathway Emergency Planning Zone - includes area in Louisiana)		283,500
Uranium Enrichment Facility		206,000
		50,000
IX. La. Radiation Protection Division Laboratory Analysis Fees		

Sample Type	Analysis	Unit Price
Air filters: Particulate	Gross beta	55
	Gamma	159
	Gamma/I-131	159
Charcoal cartridge		
Milk	Gamma	170
	I-131	181
Water	Gamma	181
	I-131	181
	H-3	68
Sediment	Gamma	192
Vegetation	Gamma	181
Fish	Gamma	192
Leak test	Gamma	159
	H-3	68
NORM sample Produced water	Gamma	170
	Gamma	181

* charges are one time and do not recur

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 18:719 (July 1992), repromulgated LR 18:956 (September 1992), amended, LR 19: (May 1993).

James B. Thompson
Assistant Secretary

RULE

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

Definitions; Liability Requirements
(LAC 33:V.109 and 4411) (HW31)

(Editor's Note: A portion of the following rule, which was referenced on page 723 in the July 20, 1992 Louisiana Register, is being republished for clarification purposes.)

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Hazardous Waste

Chapter 1. General Provisions and Definitions

§109. Definitions

* * *

Solid Waste—

1. - 4.b.iii. ...

c. the administrative authority will use the following criteria to add wastes to that list:

i. the materials are ordinarily disposed of, burned or incinerated; or

ii. the materials contain toxic constituents listed in Table 1 of LAC 33:V.Chapter 31 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

iii. the material may pose a substantial hazard to human health and the environment when recycled.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19: (May 1993).

Chapter 43. Interim Status
§4411. Liability Requirements

* * *

F. Financial Test for Liability Coverage

1. An owner ...

* * *

b. The owner or operator must have:

i. - ii. ...

iii. assets located in the United States amounting to either at least 90 percent of his total assets or at least six times the sum of the amount of liability coverage and any other obligations covered by a financial test.

iv. (deleted)

2. The phrase "amount of liability coverage"...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 16:399 (May 1990), LR 18:723 (July 1992), repromulgated LR 19: (May 1993).

James B. Thompson, III
Assistant Secretary

RULE

Office of the Governor
Office of Elderly Affairs

Long Term Care Assistance Program (LAC 4:VII.1237)

In accordance with R. S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) has amended the GOEA Policy Manual, effective May 20, 1993. The purpose of this rule change is to clarify the eligibility requirements for the Louisiana Long Term Care Assistance Program.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

Subchapter E. Uniform Service Requirements

§1237. Long Term Care Assistance Program

* * *

D. Eligible Participants

* * *

2. Medicaid Benefits

a. Applicants for Medicaid shall not receive benefits in this program until written notification of ineligibility is received by the agency.

b. Participants shall immediately notify the agency upon application for Medicaid benefits. Payments shall be suspended until written notification of determination of Medicaid eligibility is received by the agency.

c. If Medicaid benefits are denied, and all other

eligibility requirements are met, payments shall be made retroactively to the month benefits under this program ceased.

d. If a participant qualifies for Medicaid benefits, and Medicaid benefits are subsequently discontinued, the person may reapply for benefits under this program.

* * *

G. Eligibility Determinations

* * *

3. Redetermination of Eligibility

a. If an applicant is determined ineligible for benefits under this program because (s)he does not meet the requirements in Paragraph 1 of Subsection D of this Section, and the applicant's circumstances change, the applicant may reapply in accordance with §1237.F.

b. A redetermination of eligibility for this program shall be made based upon the current financial status of the applicant.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2802(D).

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 18:1257 (November 1992), amended LR 19: (May 1993).

James R. Fontenot
Director

RULE

Department of Health and Hospitals
Board of Certification for Substance Abuse Counselors

Complete Rules Revision (LAC LXXX.Chapters 1-19)

Under the authority of the Substance Abuse Counselor Certification Act, R.S. 37:3371-3384, and in accordance with the provisions of the Administrative Act, R.S. 49:950 et seq., the chairman of the Board of Certification for Substance Abuse Counselors has amended LAC 46:LXXX Chapters 1-19 by completely revising the rules which govern the board, the certification of substance abuse counselors, and the practice of substance abuse counseling.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LXXX. Board of Certification
for Substance Abuse Counselors

Chapter 1. General Provisions

§101. Scope

The rules of this Part are relative to and govern the Louisiana State Board of Certification for Substance Abuse Counselors (the board) within the Department of Health and Hospitals, the certification for substance abuse counselors, and the practice of substance abuse counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health

and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), amended LR 19: (May 1993).

§103. Source and Authority

These rules are promulgated by the board to provide for and implement its authority and responsibility pursuant to the Substance Abuse Counselor Certification Act (the act), R.S. 37:3371-3384.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1075 (December, 1989), amended LR 19: (May 1993).

§105. Definitions

A. As used in these rules, the following terms shall have the meanings specified:

Act—the Substance Abuse Counselor Certification Act, Act 1987, No 382, §2, as amended, R.S. 37:3371-3384.

Board—the Louisiana State Board of Certification for Substance Abuse Counselors. The acronym "LSBCSAC" shall also refer to this board.

Board Approved Clinical Training Program—any clinical setting involving substance abuse treatment or substance abuse counseling services which has applied for, received, and maintained approval by the board. The board shall provide for institutions to register as being board approved for clinical training in substance abuse counseling.

Board Approved Educational Program—any course, workshop, seminar, conference or other educational program presented by an organization which has applied for, received, and maintained approval by the board. The board shall provide for organizations to register as being board approved as an education provider in the field of substance abuse counseling.

Board Approved Institution of Higher Education—any college or university accredited by a recognized regional accrediting body which has applied for, received, and maintained approval of the board. The board shall provide for institutions of higher education to register as being board approved for higher education in substance abuse counseling.

Core Functions—the screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, client education, referral, reports and record keeping, and consultation with professionals.

Qualified Professional Supervisor—a substance abuse counselor who has been certified and has worked in a licensed or board approved substance abuse treatment program for a minimum of two years; or a credentialed professional such as a board certified social worker, licensed psychologist, or licensed physician; or any other professional recognized as a trainer by the board upon presentation of verification and documentation of expertise. The board shall provide for qualified professional supervisors to register as substance abuse counselor supervisors.

Substance Abuse—the repeated pathological use of drugs, including alcohol, which causes physical, psychological, economic, legal, or social harm to the individual user or to others affected by the user's behavior.

Substance Abuse Counselor—any person who, by means of his specific knowledge acquired through formal education and practical experience, is qualified to provide substance abuse counseling services which utilize the basic core functions specific to substance abuse counseling and is certified as such by the board. The board shall consider any person providing such services as purporting to be a substance abuse counselor.

B. All terms used in these rules which are defined by the act, R.S. 37:3372, shall have the same meanings in these rules as defined by the act.

C. Masculine terms wheresoever used in these rules shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1075 (December, 1989), amended LR 19: (May 1993).

§107. Severability

If any provision of these rules, or the application or enforcement thereof, is held invalid, such invalidity shall not affect other provisions or applications of these rules which can be given effect without the invalid provisions or applications, and to this end the several provisions of these rules are hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1075 (December, 1989), amended LR 19: (May 1993).

§109. Board Procedures and Administration

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

Chapter 3. Practice

§301. Scope of Practice

A. The practice of substance abuse counseling within the meaning and intent of these rules and regulations shall consist of the rendering of professional guidance to abusers of drugs or alcohol to assist them in gaining an understanding of the nature of their disorder and developing an maintaining a responsible lifestyle free of substance abuse. The scope of practice shall include making appropriate referrals to qualified professionals, providing counseling to family members when appropriate, and utilizing the core functions of substance abuse counseling.

B. Nothing in these rules and regulations shall be construed to authorize a substance abuse counselor to practice medicine, social work, or psychology, or to provide counseling for disorders other than substance abuse. A substance abuse counselor shall not order, administer, or interpret psychological tests or utilize psychometric procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health

and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1076 (December, 1989), amended LR 19: (May 1993).

§303. Minimum Standards of Practice

The minimum standard of practice will be met if:

1. the counselor is certified and in good standing with the board;
2. the counselor adheres to the code of ethics as set forth in these rules; and
3. the counselor practices within the scope of practice defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1077 (December, 1989), amended LR 19: (May 1993).

§305. Acceptance of Application

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

§307. Renewal

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

§309. Denial or Revocation of Certification

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

Chapter 5. Organization, Functions, and Delegation of Authority

§501. Fees

A. The board shall be financially self-sufficient. It shall receive no state funds through appropriation or otherwise and shall not expend or commit to expend any such state funds.

B. To defray the cost of administering the provisions of the act, the board shall fix reasonable fees to be assessed and reasonable penalties to be assessed for late renewal of certification and other administrative infractions.

C. The fees for application, certification, registration, and other services of the LSBCSAC shall be set by the board annually upon adoption of the budget for the fiscal year. Each fee shall not exceed \$200 and the total shall not exceed the amount required to maintain and pay the operating expenses of the board.

D. The fee schedule shall be as follows. It shall be available upon request made to the board.

- | | |
|----------------|-------|
| 1. Application | \$ 50 |
|----------------|-------|

2. Initial Certification	\$150
3. Examination	\$150
4. Certification by Transition	\$150
5. Certification by Reciprocity	\$150
6. Renewal of Certification	\$150
7. Late Fee for Renewal of Certification	\$100
8. Reinstatement of Certification	\$100
9. Replacement of Lost/Destroyed Certificate	\$ 25
10. Appeal of Committee Decision	\$ 50
11. Special Handling	\$ 15
12. Express Mail	\$ 10
13. Request for Waiver	\$ 25
14. Registration as CIT	\$ 25
15. Renewal of Registration as CIT	\$ 25
16. Registration as RCS	\$ 75
17. Renewal of Registration as RCS	\$ 50
18. Registration as ATI	\$200
19. Renewal of Registration as ATI	\$150
20. Registration as AEP	\$100
21. Renewal of Registration as AEP	\$ 75
22. Registration as AIHE	\$100
23. Renewal of Registration as AIHE	\$ 75
24. Late Fee for Renewal of Any Registration	\$ 50
25. Single Course Approval Fee	\$ 30
26. Filing of Course Attendance (per person)	\$ 1
27. Minimum Filing Fee (per course)	\$ 10
28. Copies of Records (per page)	\$ 1
29. Research of Closed Records (each)	\$ 10

E. All fees are non-refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1078 (December, 1989), amended LR 19: (May 1993).

§503. Board Organization, Procedure, and Administration

A. Members

The board shall consist of seven members appointed by the governor, subject to Senate confirmation, pursuant to R.S. 37:3373(A). The board shall consist at all times of at least two members who are recovering from a prior chemical dependency problem, however, a majority of the board shall be composed of individuals who are board certified substance abuse counselors or doctors certified by the American Society of Addiction Medicine.

B. Oath

Before taking office, each member of the board duly

appointed by the governor shall subscribe before a notary public, and cause to be filed with the secretary of the board, an oath in substantially the following form:

"I HEREBY SOLEMNLY SWEAR AND AFFIRM that I accept the trust imposed on me as a member of the Louisiana State Board of Certification for Substance Abuse Counselors, and will perform the duties imposed on me as such by the laws of the state of Louisiana to the best of my ability and without partiality or favoritism to any constituency, group or interests which I may individually represent or with whom I may personally be associated."

C. By-Laws

The board shall adopt by-laws which shall govern the operation of the board.

D. Officers

The board shall elect a chairman, vice chairman, secretary-treasurer, and officer pro tem, pursuant to the by-laws.

E. Meetings

1. The board shall hold at least four regular meetings annually.

2. The chairman may call meetings by giving three days notice to all board members.

3. A majority of the members of the board may call meetings by giving 10 days notice to all board members.

4. Meetings shall be announced and conducted under the provisions of the Louisiana Open Meetings Law, R.S. 42:1 - R.S. 42:12.

5. A quorum of the board necessary to transact all business is a majority of its current membership.

6. *Robert's Rules of Order Revised* shall be the basis of parliamentary decisions except as otherwise provided by the by-laws or by resolution adopted by the board.

7. An agenda shall be prepared and submitted to each member of the board which includes the order of business, items required by law, and other matters approved by the chairman. The board may vote to amend the agenda during its meeting.

F. Minutes

1. The minutes of any board meeting are official only when certified by the secretary-treasurer and affixed with the original signature of the chairman. The chairman shall sign the minutes upon their being submitted by the secretary-treasurer at a meeting of the board and approved by action of the board.

2. The minutes of board meetings shall contain a record of all official business conducted by the board.

3. A draft copy of the minutes of each meeting shall be forwarded to each member of the board for review and comments or corrections prior to approval by the board.

4. The official minutes of the board meetings shall be kept in the office of the board and shall be available during regular office hours to any person desiring examination thereof.

G. Committees

1. The chairman, with the knowledge of or at the direction of the board, may establish committees deemed necessary to carry out the board responsibilities. Each committee shall have a designated committee chairman.

2. The structure and duties of committees shall be defined

in the by-laws of the board.

3. Committees, when so directed by the board, shall prepare and publish policies and procedures to govern their functions. The board shall review and approve all policies and procedures.

4. The committee chairman shall make regular reports to the board either in writing or at regular meetings.

5. The committees shall meet when called by the committee chairman, the chairman of the board, or when so directed by the board.

H. Attendance

1. The attendance policy of the board is that members will attend regular and specially called board meetings, and committee meetings as scheduled.

2. The board may report to proper governmental agencies the attendance records of its members.

I. Employees

1. The board may employ persons at will necessary to carry out the duties and responsibilities of the LSBCSAC.

2. The board shall prepare policies and procedures to govern employment, titles, job descriptions, compensation, and other personnel matters. These policies and procedures shall be consistent with state civil service and Department of Health and Hospitals regulations.

3. The board may delegate authority and responsibility to employees.

4. The board retains ultimate authority and responsibility over all employees.

J. Transactions of Official Business

1. The board may transact official business only when in a legally constituted meeting with a quorum present.

2. The board shall not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is pursuant to the specific instructions of the board.

3. The by-laws, policies and procedures, resolutions, and other official actions when approved by motion duly made, seconded, and passed shall constitute the official business of the board.

K. Official Records

1. Official records of the board shall be maintained at the office of the board or other depository authorized by the board.

2. All official records of the board including application materials, except materials containing information considered confidential, shall be open for inspection during regular office hours.

3. Any person desiring to examine official records shall be required to properly identify himself and sign statements listing the records questioned and examined. Records which are stored in historical files or which have been authorized for off site storage may require a fee for research and location.

4. Official records shall not be taken from the board's office. Persons may obtain copies of records upon written request and by paying a fee prescribed by the board.

L. Discrimination Policy

The board shall make no decision in the discharge of its duty with regard to any persons' race, religion, color, sex, or national origin.

M. Policy on Handicapped Applicants

The board recognizes that handicapped applicants may encounter special problems in applying for certification and will make every effort, as required by law, to accommodate these applicants.

N. Certificate

1. The board shall prepare and provide to each certified counselor a certificate which lists the counselor's name, date of initial certification, and certification number.

2. Original certificates shall not be issued until the application has been evaluated and approved by official action of the board. The board may set the effective date and expiration date of the certificate at the time of approval.

3. Replacement certificates shall be issued when the required request has been received and fee paid. Replacement certificates shall contain the same information as the original certificate.

4. Official certificates shall be signed by the chairman, vice chairman, and secretary-treasurer, and be affixed with the official seal of the State of Louisiana. Certificates shall be signed by officers who are serving at the time the certificate is issued.

5. Currency of the certificate shall be documented by a wallet card issued by the board with the date of certification or renewal and the date of expiration.

O. Roster and Mailing Lists

1. Each year the board shall make available a roster of Board Certified Substance Abuse Counselors.

2. The roster shall include, but not be limited to, the name, address, and telephone number of each counselor. It is the counselor's responsibility to keep the board informed of changes of address or other information.

3. The board shall make copies of the roster available to counselors, interested agencies, and the general public upon request and at a cost prescribed by the board.

4. The use of mailing lists may be obtained from the LSBSCAC by submitting the prescribed fee with a written request, including delivery instructions, to the office of the LSBSCAC.

5. Rosters and mailing lists are the property of the LSBSCAC and shall not be distributed nor used by any party other than that which initially obtained a copy.

P. Annual Schedule

The board shall set and publish an annual schedule of activities, including regular meeting dates, application deadlines, examination dates, and expiration dates.

Q. Notice and Receipt

1. Notices and communications are official when signed by a member of the board or other person so designated and mailed to the address of record.

2. The receipt of applications, forms, notices, and other communications by the board shall be determined by the date when received in the office of the LSBSCAC.

3. The board shall not be responsible for delay in delivery.

R. Waivers and Appeals

1. The board may consider waiver of a requirement over which it has authority for due cause. A request for such waiver shall be made in writing detailing justification for the request and the specific action desired, and shall be

accompanied by the required fee.

2. The board may be requested to rule on the appeal of any decision made by its committees. A request for appeal of a committee decision shall be made in writing detailing the facts and the specific action desired, and shall be accompanied by the required fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1078 (December, 1989), amended LR 19: (May 1993).

§505. Advice and Consultation

The board shall seek the advice of the Louisiana Commission on Alcohol and Drug Abuse, in accordance with R.S. 46:2503(E), concerning establishing minimum educational and experiential requirements for persons seeking certification under the provisions of the act. The board shall also consult with the commission on matters pertaining to certification requirements and standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989), amended LR 19: (May 1993).

§507. Prohibited Activities

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

§509. Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

§511. Confidentiality

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1074 (December, 1989), repealed LR 19: (May 1993).

Chapter 7. Certification

§701. Requirements

A. Initial Certification

The board shall issue a certification as a Board Certified Substance Abuse Counselor (BCSAC) to each candidate who:

1. is at least 21 years of age and has earned a high school diploma or its equivalent;
2. is a citizen of the United States;
3. is not in violation of any ethical standards subscribed to by the board;
4. is not and has not been an abuser of alcohol or other drugs during the previous two years;

5. has not been convicted of a felony. However, the board in its discretion may waive this requirement upon review of the individuals's circumstances;

6. provides evidence of having earned educational credit sufficient to satisfy the requirements for counselor certification which include:

a. has successfully completed a minimum of 30 semester hours of substance abuse courses or their equivalent from an accredited and board approved institution of higher education. Equivalency may be met by a minimum of 15 semester hours and the remainder, up to 15 equivalent hours, granted by a board approved institution of higher education or other board approved educational program at the rate of 10 contact hours per one semester hour;

b. for candidates applying for certification on or after September 1, 1993, possesses a bachelor's degree from an accredited institution of higher education.

7. provides evidence of having successfully completed the experiential requirements for counselor certification which include:

a. one year of full-time employment in a board approved clinical training program or the equivalent thereof. Equivalence may be met by 2,000 clock hours of work on a part-time or volunteer basis in a board approved clinical training program;

b. the full-time duties or equivalent thereof were in the actual performance of the core functions with substance abuse clients;

c. the full-time duties or equivalent thereof were under the supervision of a qualified professional including direct supervisor in each of the 12 core functions.

8. demonstrates professional competency in substance abuse counseling by passing a written and oral examination prescribed by the board;

9. makes application and pays the fees prescribed by the board;

10. it is the candidate's responsibility to assure himself that his educational preparation has provided comprehensive coverage of the subjects and topics necessary to allow him to develop a sufficient knowledge base and to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling;

11. it is the candidate's responsibility to assure himself that his clinical experience has provided comprehensive training sufficient to adequately prepare him to be able to demonstrate professional competency in substance abuse counseling;

12. credit received for practicum, internship, or other experiential education may be claimed for education or experience, but not both.

B. Certification by Transition from LASACT, Inc.

The board shall issue a certificate to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application and examination;

2. meets the requirements in §701.A.1 through 7;

3. holds a valid and current certificate as a substance abuse counselor issued by the Louisiana Association of Substance Abuse Counselors and Trainers (LASACT), Inc.

C. Certification by Reciprocity from Other States

The board may issue a certificate, without examination in this state, to any person who:

1. submits an application and pays the fees equivalent to those required for the initial application and examination;

2. possesses a valid certificate to practice as a substance abuse counselor in any other state of the United States;

3. can satisfy the board that the certificate from the other state is based upon an examination and other requirements substantially equivalent to the requirements of §701.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989), amended LR 19: (May 1993).

§703. Application and Examination

A. Request for Application

1. Persons desiring information regarding certification as a Board Certified Substance Abuse Counselor shall be sent an information brochure and a request for application form.

2. The board will not evaluate an applicant's credentials without receiving a complete application package.

3. An application package shall be sent to any person who files a request for application form and pays the application fee set by the board.

4. An applicant shall have six months from the date issued to complete the application package and return it to the board. The application package shall expire one year from the date it is issued. Applicants with expired or void application packages must re-apply.

B. Required Application Materials

1. The application package shall contain forms for the applicant to provide information and documentation of meeting the requirements for certification. Instructions for completing the forms and submitting the package shall also be included.

2. The application package shall accommodate the variations in requirements for initial certification, certification by transition from LASACT, Inc., certification by reciprocity from another state, or any other type of certifications authorized by law.

3. Each application package shall require the following:

a. specific information regarding personal data, employment and type of practice, any other state license and certification held, felony convictions, educational background including practicum experience, supervised experience, and references;

b. the applicant's permission for the board to seek any additional information or references it deems necessary to determine the applicant's qualifications;

c. a statement that the applicant, if issued a certification, shall return the certificate, current certification card, and any other designations granted by the board upon a revocation or suspension of the certification;

d. a statement that the applicant understands that fees submitted in the certification process are non-refundable;

e. the application signed by the applicant, dated, and notarized;

f. a recent full face wallet size photograph of the applicant affixed to the application with the imprint of the

notary seal overlapping the photograph.

4. A supervisor's evaluation form shall be required. This evaluation is confidential and shall be mailed directly to the office of the LSBCSAC.

5. Three professional references shall be required. These references are confidential and shall be mailed directly to the office of the LSBCSAC.

6. An application will not be reviewed until the submitted application package is completed, i.e., all of the required information and forms are received by the board.

C. Acceptance of Application

1. Applications will be accepted if the complete application package meets the requirements for certification with the exception of passing the required examinations.

2. Should the package submitted not meet the requirements, the applicant will be notified of the deficiencies. Applicants may correct deficiencies by submitting an addendum to their application providing additional or corrected information.

3. The certification committee shall rule on any questions concerning applications for certification.

4. Upon notification that the application is acceptable, the applicant becomes a candidate for certification.

a. Candidates requiring examination are then eligible to request the written and oral examinations.

b. The applications of candidates not requiring examination are ready for evaluation by the board for approval and issue of certification and the candidates shall be so notified.

D. Examination

1. Candidates must request examination by submitting the required form, including a written case, selecting an examination date 30 days in advance, and paying the examination fee set by the board.

2. The board shall determine the scope and administration of the examination which shall consist of written and oral parts to provide the opportunity for the candidate to demonstrate competency in substance abuse counseling.

3. The board shall develop, publish, and make available for interested parties a bibliography and study guide for the examinations.

4. The board shall notify each candidate of the examination results within 60 days of the date of the examination.

a. If the notice of the examination results will be delayed for more than 60 days, the board shall notify the applicant before the sixtieth day.

b. Regardless of which numerical or other scoring system is used to arrive at examination results, the official notice of results to applicants shall be stated in terms of passed or failed.

5. The application of a candidate who fails to appear for an examination date selected or agreed to by the candidate for reasons other than documented illness or other causes beyond the candidate's control becomes void. The candidate must re-apply and pay all applicable fees.

6. The application of a candidate who fails both parts of the examination becomes void. The candidate must re-apply and pay all applicable fees.

7. A candidate who fails either part of the examination may:

a. continue in the process as long as his application is valid;

b. re-test the failed part of the examination by submitting the required form, including a written case for an oral re-test, selecting a new examination date 30 days in advance, and paying the examination fee set by the board.

8. If requested, by the candidate, the board shall furnish the candidate who fails any examination an evaluation of that candidate's test performance.

9. The applications of candidates who pass both parts of the examination are ready for evaluation by the board for approval and issue of certification and the candidates shall be so notified.

10. The certification committee shall rule on any questions concerning examination.

E. Approval and Issue

1. A candidate who has been notified that his application is ready for evaluation shall submit the certification fee prescribed by the board 10 days prior to the next regular meeting of the board.

2. Upon receipt of the certification fee, the board shall examine the application and recommendations from the certification committee. The board shall issue certification as a BCSAC to the candidate upon formal affirmative vote of the majority of the board present and voting provided there is a quorum present.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1079 (December, 1989), amended LR 19: (May 1993).

§705. Renewal

A. Every person certified under these rules and regulations shall renew his certificate every two years.

B. Notice

A renewal notice and renewal application forms shall be mailed to the address of record 30 days prior to expiration.

C. Issue of New Card

1. Upon receipt of the application for renewal, proof of the required continuing professional education, and the renewal fee, the board shall verify the accuracy of the application for renewal and issue a new wallet card with the date of renewal and the new expiration date.

2. Applications for renewal which do not satisfy the requirements will be deficient. The counselor will be notified and allowed to correct the deficiency. It is the counselor's responsibility to correct the deficiency prior to the expiration date of his certification.

3. The certification committee shall rule on any questions regarding application for renewal of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1080 (December, 1989), amended LR 19: (May 1993).

§707. Continuing Professional Education

A. Within the two years prior to application for certification renewal, all board certified substance abuse counselors must have completed at least 48 clock hours of education directly applicable to substance abuse counseling.

B. Sources

1. The 48 hours of education must be in the form of workshops, seminars, courses, or other organized educational programs conducted by providers previously approved by the board. Semester credit hours may be converted to clock hours at the rate of 10 clock hours per one semester hour.

2. In-service training conducted by and for a counselor's own agency does not count towards this requirement. Education conducted by a counselor's own agency which has prior board approval shall be accepted.

3. A maximum of 12 hours of education equivalence may be requested for each year.

a. Service to the board is an education equivalent if the board issues a document to verify the service as such.

b. Delivery of a board approved educational program is an education equivalent if the trainer documents that the material was presented for the first time or from recently acquired updated sources.

C. Content

The continuing education for renewal of certification must come from at least three of the following:

1. techniques of screening, intake, orientation, and assessment of client/patient;

2. client education approaches for problems of chemical dependency;

3. treatment planning strategies and counseling skills;

4. chemical dependency counseling techniques including individual and group psychodynamics;

5. case management matrices, consultation methods, and the utilization of other professional/treatment services and referral systems;

6. chemical dependency crisis intervention skills;

7. awareness of special population needs in reference to substance abuse;

8. utilization of self-help groups and awareness of the twelve-step process;

9. basic pharmacologic knowledge and an understanding of the chemical dependency disease concept;

10. reporting and record keeping;

11. professional ethics of substance abuse counseling;

12. related medical and psychological disorders that may require referral.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1080 (December, 1989), amended LR 19: (May 1993).

§709. Inactive Certificate; Late Renewal; Reactivation

A. Inactive Certificate

Certification becomes inactive immediately upon passing the expiration date.

B. Late Renewal

Applications for renewal of certification or any part thereof

received after the expiration date are considered late and shall be subject to a late fee.

C. Reactivation Grace Period

A 90 day grace period shall be granted to reactivate certification without any lapse in continuity provided:

1. a satisfactory application for renewal is received within 90 days of the expiration date;

2. a late fee is paid in addition to the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 15:1080 (December, 1989), amended LR 19: (May 1993).

§711. Lapsed Certificate; Reinstatement; Surrender

A. Lapsed Certificate

Certification is inactive and lapsed immediately upon passing 90 days after the expiration date. Lapsed certificates shall be surrendered to the board for non-payment of fees, or reinstated, upon meeting the reinstatement requirements.

B. Reinstatement

A lapsed certificate may be reinstated within one year of the expiration date provided:

1. a satisfactory application for renewal is received within one year of the expiration date with an explanation of the lapse and written request for reinstatement;

2. at least 60 clock hours of education are documented;

3. a reinstatement fee is paid in addition to the late and renewal fees;

4. the board grants the reinstatement by official action;

5. new issue and expiration dates are set by the board and the counselor's file is annotated to show the lapsed period.

C. Non-payment of Fees; Surrender of Certificate

1. A former board certified substance abuse counselor who does not renew his certificate shall surrender the certificate by returning it to the office of the LSBACSAC.

2. A former board certified substance abuse counselor who desires to exercise the option of the grace period to reactivate the certificate or to apply for reinstatement within one year may retain the certificate provided an acknowledgement is made in writing that the certificate is not valid during the period in which it is inactive or lapsed.

3. A lapsed certificate that has not been reinstated within one year of the expiration date is null and void. A new application package for certification must be submitted to the board to become certified by the board again.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Chapter 9. Denial, Suspension, Revocation of Certification; Appeal

§901. Authority

The board shall have the power to deny, revoke, or suspend its certification of any person upon proof that such person:

1. has been convicted of any offense which constitutes a felony under the laws of this state, whether or not the conviction was in a court in this state;

2. is convicted of a felony or other serious crimes;

3. violates any provision of the ethical standards to which the board subscribes;
4. attempts to practice medicine, psychology, or social work without being licensed in such professions;
5. is impaired in delivery of professional services because of alcohol or drug abuse, or because of medical or psychiatric disability;
6. provides drugs or other restricted chemical substances to another person;
7. allows his certificate to be used by another person to illegally represent himself as a certified substance abuse counselor;
8. engages in sexual misconduct with a client or a family member of a client;
9. obtained certification by means of fraud, misrepresentation, or concealment of material facts;
10. has been found guilty of fraud or deceit in connection with services rendered;
11. has been grossly negligent in practice as a substance abuse counselor;
12. has violated any lawful order, rule, or regulation rendered or adopted by the board;
13. has violated any provision of the act or of these rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§903. Denial of Certification

- A. The board shall deny issue of certification to any candidate against whom there is an unresolved complaint.
- B. The board shall deny issue of certification to any applicant or candidate for certification who does not satisfy the requirements for certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§905. Suspension of Certification

- A. The board shall suspend the certification of any BCSAC who voluntarily surrenders his certificate. The suspension shall be for a defined period of time or until specific conditions required by the board are satisfied.
- B. The board shall suspend the certification of any BCSAC against whom there is a complaint containing allegations which reasonably suggests that a violation of the act or the rules and regulations of the board of a most serious nature may have occurred pending outcome of investigation and/or a formal hearing.
- C. The board may seek suspension of certification through injunction and restraining order issued by a court of competent jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§907. Revocation of Certification

A. Any person whose certification is sought to be revoked in accordance with the provisions of these rules and regulations shall be given 30 days notice in writing enumerating the charges and specifying the date for a hearing before the board, conducted in accordance with applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

B. In connection with any hearing, the board may issue subpoenas, compel the attendance and testimony of witnesses, and administer oaths in the same manner as a district court in the parish wherein the hearing takes place.

C. A stenographic record of all proceedings before the board shall be made and a transcript kept on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§909. Appeal

A. Any person aggrieved by a decision of the board revoking his certification may appeal the decision within 30 days to the district court for the parish wherein the hearing was held. In such a case of an appeal the board shall transmit to the district court a certified copy of the hearing record. The district court shall try the appeal de novo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Chapter 11. Complaints

§1101. Complaint Procedure

The board shall develop policies and procedures to receive, review, investigate, and act upon complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1103. Filing a Complaint

A. Any person desiring to report a complaint or alleged violation against a board certified substance abuse counselor or other person shall notify the LSBCSAC office. This initial contact notification of a complaint may be in person, by phone, or in writing. The person reporting the complaint or alleged violation may request a complaint form directly or may request that a member of the ethics committee contact him.

B. Upon receipt of a complaint notification, the ethics committee shall send an acknowledgement letter to the complainant and an official complaint form. The complainant must complete and return the official complaint form to the LSBCSAC office before any further action can be taken.

C. Upon receipt of an official complaint form, the ethics committee shall open a complaint file. The complaint shall be reviewed to determine if the allegations documented in the complaint constitute a violation of the act or rules and regulations of the board. If the allegations do not reasonably suggest that a violation occurred, the complainant will be so notified, the complaint forwarded to another agency if

appropriate, and the file closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1105. Investigation

A. If the allegations in the complaint reasonably suggest a violation of the act or rules and regulations of the board, the ethics committee shall initiate an investigation. The ethics committee shall notify the subject that a complaint has been filed and provide a copy of the official complaint form. The board certified substance abuse counselor or other person who is the subject of the complaint shall be required to provide a signed and notarized response within 15 days of being notified of the complaint.

B. The ethics committee shall determine the seriousness of the alleged violations. If of a less serious nature, the ethics committee shall endeavor to negotiate an agreement between the parties to satisfy the complaint. Any such agreement shall be put in writing and signed by both parties.

C. If the allegations are of a more serious nature, the ethics committee shall pursue investigation to obtain further information, corroborative statements or evidence, and/or associated facts concerning the alleged violation.

D. If the allegations are of a most serious nature, the ethics committee shall pursue investigation in a timely manner and may recommend suspension of certification or an immediate injunction and temporary restraining order pending outcome of the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1107. Resolution

A. The board may hold an informal hearing to resolve any complaint.

B. A complaint not resolved by the ethics committee or by an informal hearing shall be referred to the board for formal action which may include dismissal of the complaint, issue of a written warning, censure, or an order for a formal hearing, pursuant to applicable provisions of the Administrative Procedures Act, R.S. 49:950 et seq., for suspension or revocation of certification.

C. Any voluntary surrender of certification shall be accompanied by agreement to satisfy all conditions set by the board.

D. The board may enter into a consent order with the subject of a complaint in lieu of decertification.

E. The ethics committee shall make quarterly reports on the status of each active complaint to the complainant, the subject, and the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Chapter 13. Impaired Counselors

§1301. Program

The board shall develop policies and procedures for the operation of an impaired counselor program which shall include provision for the identification and rehabilitation of certificate holders whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1303. Identification

A. Any report of impairment shall be forwarded to the impaired counselor program for review and recommendation. The board shall investigate any counselor who holds a certificate issued by this board whose quality of service is impaired or thought to be impaired due to mental or physical conditions.

B. Should the board have reasonable cause to believe that a counselor's fitness and ability is affected by mental illness or deficiency, or physical illness, including but not limited to deterioration through the aging process and/or excessive use or abuse of drugs including alcohol, a thorough examination may be ordered.

C. The board may appoint or designate an examining committee of board certified substance abuse counselors, physicians, and/or other health care professionals to conduct a physical and/or mental examination, including requiring a urine drug screen, blood, breath, and other tests as deemed appropriate and allowed by law; and to otherwise inquire into a counselor's fitness and ability to practice this profession with reasonable skill and safety to clients.

D. The order for examination shall be the counselor's opportunity to defend against the alleged impairment and prove fitness to practice this profession. Refusal to follow the order for examination or failure to keep an appointment for examination or tests without just cause shall be de facto evidence of impairment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1305. Rehabilitation

A. The examining committee shall submit advisory reports and recommendations to the board. Priority shall be given to intervention, treatment, rehabilitation, and monitoring recommendations if impairment is suspected or confirmed.

B. Voluntary surrender of certification shall be accompanied by agreement to satisfy all conditions set by the board.

C. A formal hearing for revocation of certification shall be the last resort.

D. The board may enter into a consent order with an impaired counselor in lieu of decertification.

E. The impaired counselor program shall supervise treatment, rehabilitation, and monitoring activities as required by the board and/or specified in any consent order. Failure to abide by these requirements and/or specifications shall result in a formal hearing for revocation of certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Chapter 15. Code of Ethics

§1501. Professional Representation

A. A counselor shall not misrepresent any professional qualifications or associations.

B. A counselor shall not misrepresent any agency or organization by presenting it as having attributes which it does not possess.

C. A counselor shall not make claims about the efficacy of any service that go beyond those which the counselor would be willing to subject to professional scrutiny through publishing the results and claims in a professional journal.

D. A counselor shall not encourage or, within the counselor's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the counselor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1503. Relationships with Clients

A. A counselor shall make known to a prospective client the important aspects of the professional relationship including fees and arrangements for the payment which might affect the client's decision to enter into the relationship.

B. A counselor shall inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the counseling relationship is entered.

C. A counselor shall provide counseling services only in the context of a professional relationship and not by means of newspaper or magazine articles, radio or television programs, mail or means of a similar nature.

D. No commission or rebate or any other form of remuneration shall be given or received by a counselor for the referral of clients for professional services.

E. A counselor shall not use relationships with clients to promote, for personal gain or the profit of an agency, commercial enterprises of any kind.

F. A counselor shall not, under normal circumstances, be involved in the counseling of family members, intimate friends, close associates, or others whose welfare might be jeopardized by such a dual relationship.

G. A counselor shall not, under normal circumstances, offer professional services to a person concurrently receiving counseling assistance from another professional except with knowledge of the other professional.

H. A counselor shall take reasonable personal action to inform responsible authorities and appropriate individuals in cases where a client's condition indicates a clear and imminent danger to the client or others.

I. In group counseling settings, the counselor shall take reasonable precautions to protect individuals from physical and/or emotional trauma resulting from interaction within the group.

J. A counselor shall not engage in activities that seek to meet the counselor's personal needs at the expense of a client.

K. A counselor shall not engage in sexual intimacies with

any client.

L. A counselor shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1505. Counselors and the Board

A. Irrespective of any training other than training in counseling which a person may have completed, or any other certification which a person may possess, or any other professional title or label which a person may claim, any person certified as a substance abuse counselor is bound by the provisions of the Substance Abuse Counselor Certification Act and the rules and regulations of the board in rendering counseling services.

B. A counselor shall have the responsibility of reporting alleged misrepresentations or violations of board rules to the board.

C. A counselor shall keep his/her board file updated by notifying the board of changes of address, telephone number and employment.

D. The board may ask any applicant or candidate for certification or recertification as a counselor or specialty designation whose file contains negative references of substance abuse to come before the board for an interview before the certification or specialty designation process may proceed.

E. The board shall consider the failure of a counselor to respond to a request for information or other correspondence as unprofessional conduct and grounds for instituting disciplinary proceedings.

F. A counselor must participate in continuing professional education programs as required and set forth in these rules.

G. Applicants or candidates for certification or recertification as a counselor or for specialty designations shall not use current members of the board as references.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1507. Advertising and Announcements

A. Information used by a counselor in any advertisement or announcement of services shall not contain information which is false, inaccurate, misleading, partial, out of context, or deceptive.

B. The board imposes no restrictions on advertising by a counselor with regard to the use of any medium, the counselor's personal appearance or the use of his personal voice, the size or duration of an advertisement, or the use of a trade name.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1509. Affirmation

A. Every BCSAC must agree to affirm:

1. that my primary goal is recovery for client and family;
2. that I have a total commitment to provide the highest quality care for those who seek my professional services;
3. that I shall evidence a genuine interest in all clients;
4. that I do hereby dedicate myself to the best interest of my clients, and to assisting my clients to help themselves;
5. that at all times I shall maintain an objective, nonpossessive, professional relationship with all clients;
6. that I will be willing to recognize when it is to the best interest of a client to release or refer him to another program or individual;
7. that I shall adhere to the rule of confidentiality of all records, material, and knowledge concerning the client;
8. that I shall not in any way discriminate between clients or professionals, based on race, creed, age, sex, handicaps, or personal attributes;
9. that I shall respect the rights and views of other counselors and professionals;
10. that I shall maintain respect for institutional policies and management functions within agencies and institutions, but will take the initiative toward improving such policies, if it will best serve the interest of the client;
11. that I have a commitment to assess my own personal strengths, limitations, biases, and effectiveness on a continuing basis, that I shall continuously strive for self-improvement, that I have a personal responsibility for professional growth through further education and training;
12. that I have an individual responsibility for my own conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1511. Confidentiality

A. No substance abuse counselor may disclose any information he may have acquired from persons consulting him in his professional capacity that was necessary to enable him to render services to those persons except:

1. with the written consent of the client, or in the case of death or disability, with the written consent of his personal representative, other person authorized to sue, or the beneficiary of any insurance policy on his life, health, or physical condition; or
2. when the person is a minor under the age of 18 and the information acquired by the substance abuse counselor indicated that the child was the victim or subject of a crime, then the substance abuse counselor may be required to testify fully in relation thereto upon any examination, trial, or other proceeding in which the commission of such crime is a subject of inquiry; or
3. when a communication reveals the contemplation of a crime or harmful act; or
4. when the person waives the privilege by bringing charges against the substance abuse counselor for breach of the privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Chapter 17. Registrations and Board Approved Programs

§1701. Counselor in Training

A. The board shall develop policies and procedures for the operation of a counselor in training program.

B. A person who is in the process of obtaining the education, training, and experience required to meet the requirement for certification may register with the board as a trainee. Trainee registration shall also be applicable for those persons desiring to become certified by this board after first becoming certified by the LASACT, Inc.

C. The designation of counselor in training, also known as CIT, shall be granted for a period beginning with approval of the request for CIT status and extending to the nearest renewal date one year after approval, provided:

1. a personal data form supplying required information on identification, place of employment, training institution, and qualified professional supervisor is completed satisfactorily;
2. the qualified professional supervisor is registered with the board or provides a written statement of credentials and commitment to provide adequate supervision;
3. the training institution is registered with the board or provides a written statement of availability of suitable duties and satisfactory supervision both functionally and professionally;
4. a signed statement is supplied attesting to the registrant's intention to seek certification as a board certified substance abuse counselor. This statement shall also attest to the registrant accepting responsibility for all actions, holding the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC;
5. the nominal fee for CIT registration is paid.

D. Registration as a counselor in training shall be renewed annually for a maximum of five additional years after the initial period of registration provided:

1. the renewal form is completed and submitted prior to expiration of the current registration;
2. the person continues to be in an appropriate training environment and under qualified professional supervision;
3. the nominal fee for annual renewal of CIT registration is paid;
4. there have been no unresolved complaints against the trainee.

E. Any person who chooses not to register as a counselor in training shall be responsible to provide documentation that the rules and regulations of the board have been complied with at the time of application for certification or at any other time that a question to the contrary may be raised by any person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1703. Registered Counselor Supervisor

A. The board shall develop policies and procedures for a registered counselor supervisor program.

B. A person who meets the requirements of a qualified

professional supervisor, as defined by these rules, may register with the board as a registered counselor supervisor, also known as an RCS.

C. The designation of registered counselor supervisor shall also be granted to those who:

1. hold a current valid certificate as a board certified substance abuse counselor, or license or certification as a credentialed professional recognized to treat substance abuse or provide substance abuse counseling services;

2. have a minimum of five years experience in substance abuse counseling or treatment, with at least two years in supervision or management;

3. have obtained at least 60 clock hours of education in supervision or management, with one semester credit hour being the equivalent of 10 clock hours.

D. The registered counselor supervisor designation is granted for a period beginning with approval of the request for RCS status and extending to the nearest renewal date one year after approval, provided:

1. a satisfactory application is received;

2. the individual signs a statement accepting the authority and responsibility of being a registered counselor supervisor, agreeing to hold the LSBCSAC harmless, and agreeing to comply with the requirements of the LSBCSAC;

3. the fee for initial registration as a RCS is paid.

E. Registration as a registered counselor supervisor shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. an annual report of activities as a RCS is filed;

3. the RCS renewal fee is paid;

4. there have been no unresolved complaints against the supervisor;

F. A registered counselor supervisor shall be authorized to perform the following duties:

1. supervise substance abuse counselors;

2. direct supervision of a counselor in training;

3. sign an applicant's experience documentation form;

4. sign an applicant's supervisor's evaluation form;

5. annual audit review of a board approved training institution;

6. annual audit review of a board approved educational program;

7. annual audit review of a board approved institution of higher education.

G. A qualified professional supervisor who chooses not to register with the board as a registered counselor supervisor shall be required to provide a statement of credentials and qualifications with each document which is presented to the board and at any time that a question as to supervision is raised.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1705. Approved Training Institution

A. The board shall develop policies and procedures for the operation of an approved training institution program.

B. Institutions which provide clinical treatment of substance abuse or offer substance abuse counseling services, have sufficient qualified clinical staff, and can offer supervised clinical positions as substance abuse counselor trainees may register with the board as an approved training institution, also known as ATI, offering clinical experience for persons wishing to apply to become candidates for board certification. An agency, corporation, organization, partnership, organized health care facility, or other autonomous organizational entity shall qualify as an institution for the purposes of this rule.

C. The designation of approved training institution is granted to the nearest renewal date one year after the request for ATI status is approved, provided:

1. a satisfactory application form is submitted;

2. the institution is licensed appropriately to provide substance abuse treatment or substance abuse counseling services;

3. the institution provides a statement signed by an authorized officer of the institution to document the institution's desire to provide clinical training in substance abuse counseling and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;

4. the institution provides statements documenting the appropriateness of their clinical treatment setting, the qualifications of its staff to provide daily clinical supervision and frequent direct supervision of trainees, and the planned duties and training program in which the trainees will be engaged. This statement must document that training, experience, and supervision in all 12 core functions will be provided;

5. the organization provides a summary statement of its continuous quality improvement program and agrees to maintain full records of that program;

6. the institution agrees to provide overall supervision of its program by a registered counselor supervisor or submit the credentials and qualifications of the qualified professional supervisor who will provide overall supervision;

7. the institution agrees to an annual audit review of its substance abuse counselor clinical training program and continuous quality improvement program by a registered counselor supervisor, and audit or review of its records at any time requested by the board;

8. the fee for initial ATI registration is paid.

D. Registration as an approved training institution shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's substance abuse counselor clinical training program and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. the renewal of ATI registration fee is paid;

4. there have been no unresolved complaints against the institution.

E. An approved training institution shall be authorized to:

1. announce to the public and advertise the availability of

its clinical training program;

2. employ counselors in training;
3. reasonably assure its trainees that their experience will meet board standards.

F. Persons submitting application for certification which list experience from institutions which are not registered as an ATI must document that the institution where the experience was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution is approved as a substance abuse counselor clinical training institution by the certifying authority in the state where the institution is located;
2. the institution is approval as a substance abuse counselor clinical training institution by a certifying authority with which the board has a current agreement of reciprocity;
3. providing documentation of:
 - a. the appropriateness of the clinical treatment setting;
 - b. the qualifications of the staff to provide daily clinical supervision and frequent direct supervision of trainees;
 - c. the duties and training program in which trainees were engaged;
 - d. that training, experience, and supervision in all 12 core functions was provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1707. Approved Educational Provider

A. The board shall develop policies and procedures for the operation of an approved educational provider program.

B. Organizations who desire to provide continuing professional education in substance abuse counseling may register with the board as an approved educational provider, also known as AEP. Each educational offering is a form of learning experience and shall be known as a course for the purposes of this rule whether it was offered for academic credit, as a workshop, seminar, conference, or in any other acceptable format. An individual, partnership, corporation, association, organized health care system, educational institution, governmental agency, or any other autonomous entity shall qualify as an organization for the purposes of this rule.

C. The designation of approved educational provider is granted to the nearest renewal date one year after the request for AEP status is approved, provided:

1. a satisfactory application form is received;
2. one person, who is qualified by virtue of education, training, and experience, as determined by the board, is identified as the supervisor of all educational programs to be offered;
3. the organization provides a statement, signed by an authorized officer of the organization, to document the organizations's desire to provide continuing professional education in substance abuse counseling and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the organization is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;

4. the organization agrees to provide a certificate of completion for each person satisfactorily completing each course which shall contain:

- a. the name and trainee or certification number of the person completing the course;
- b. the name and AEP number of the provider;
- c. the title of the course, course number, name of the instructor(s), and date(s) of the course;
- d. the number of clock hours of credit earned;
- e. the signature of the organization's educational program supervisor or the instructor, or both.

5. the organization agrees to file a course report with the board within 10 days of completion for each course which shall contain:

- a. the AEP number and course number of the provider;
- b. the trainee or certification number and the clock hours earned for each person completing the course, or, the name and hours for persons not registered with or certified by this board;
- c. a sample of the certificate of completion;
- d. the required course filing fee.

6. the organization agrees to provide board approved credit only for courses which meet the educational standards of the board and which are taught by instructors who are qualified by virtue of education, training, and experience. The organization agrees to document this by maintaining a file for each course in its office which contains:

- a. the course description containing the educational objectives; course outline; instructional modalities; and relevance of the material, including relationship to the 12 core functions, theoretical content related to scientific knowledge of practicing in the filed of substance abuse counseling, application of scientific knowledge in the filed of substance abuse counseling, direct and/or indirect patient/client care, and which renewal education area or areas are addressed;
- b. the qualifications of instructors containing description of the education, training, and experience which prepared them to teach the course.

7. the organization provides a summary statement of its continuous quality improvement program and agrees to maintain full records of that program. This program shall include but not be limited to student evaluations of each course;

8. the organization agrees to notify the board and each person who completed a course in a timely fashion if it is determined that a course did not comply with the standards of the board for substance abuse counselor education. The organization shall also present its written policy on refunds and cancellation;

9. the organization agrees to an annual audit review of its education program, course files, and continuous quality improvement program by a registered counselor supervisor, and an audit or review of its records at any time by the board;

10. the initial AEP registration fee is paid.

D. Registration as an approved education provider shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;
2. the annual audit report of the organizations's education

program, course files, and continuous quality improvement program signed by a registered counselor supervisor is filed;

3. the renewal of AEP registration fee is paid and the filing fee deposit is replenished;

4. there have been no unresolved complaints against the organization.

E. An approved education provider shall be authorized to:

1. announce to the public and advertise that its educational offerings meet the standards of the board;

2. issue certificates of completion which acknowledge board approval of the course.

F. An organization may be granted approval as a single course provider provided:

1. a satisfactory application form is received prior to offering the course;

2. the organization documents the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions, and which renewal education area or areas are addressed;

3. the organization documents the qualifications of the instructors including description of the education, training, and experience which prepared them to teach the course;

4. the organization agrees to provide a certificate of completion containing the same information required of an AEP;

5. the organization agrees to file a course report in the same fashion as an AEP and to include student evaluations of that course;

6. the single course fee is paid and a filing fee deposit has been made.

G. An organization desiring single course provider status may:

1. announce to the public and advertise that the course meets the standards of the board only if approval has been granted. Prior to approval, the organization may state that board approval is pending only if application has been made. Otherwise, the organization is prohibited from making any statement regarding board approval of its course;

2. offer to provide a certificate of completion only after board approval has been granted and all required information is included on the certificate.

H. A trainee or counselor who wishes educational credit from a source which has not been approved by this board shall document that the provider of such education meets standards which are equivalent to those of this board. Equivalence may be demonstrated by:

1. the provider holding approval as a substance abuse education provider from the certifying authority in the state where the course was offered;

2. the provider holding approval as a substance abuse education provider from a certifying authority with which the board has a current agreement of reciprocity;

3. providing documentation of:

a. the course description including the educational objectives, course outline, instructional modalities, relationship of the material to the 12 core functions, and which renewal education area or areas are addressed;

b. the qualifications of instructors including description

of the education, training, and experience which prepared them to teach the course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1709. Approved Institution of Higher Education

A. The board shall develop policies and procedures for the operation of an approved institution of higher education program.

B. Institutions which grant formal college credit for courses in substance abuse counseling, have sufficient qualified faculty, and can offer supervised clinical practicum or internship may register with the board as an approved institution of higher education, also known as AIHE.

C. The designation of approved institution of higher education is granted to the nearest renewal date one year after the request for AIHE status is approved, provided:

1. a satisfactory application form is submitted;

2. the institution is an organized college or university accredited by a recognized regional accrediting body;

3. the institution provides a statement, signed by an authorized officer of the institution, to document the institution's desire to provide substance abuse counselor education and acknowledgment of responsibility for such activities. This statement must contain acknowledgment that the institution is independent of the LSBCSAC, that it will hold the LSBCSAC harmless, and that it will comply with the requirements of the LSBCSAC;

4. the institution provides a statement documenting the appropriateness of their curriculum, the qualifications of the faculty to teach such courses, and the policy on practicum and internship courses. This statement must document that education, training, experience, and supervision when appropriate in all 12 core functions will be provided;

5. the institution provides a summary statement of its continuous quality improvement program and agrees to maintain full records of that program;

6. the institution agrees to provide for ongoing consultation from a registered counselor supervisor or submit the credentials and qualifications of the qualified professional supervisor who will provide ongoing consultation relative to the quality and content of its substance abuse counselor curriculum;

7. the institution agrees to an annual audit review of its substance abuse counselor curriculum and continuous quality improvement program by a registered counselor supervisor, and an audit or review of its records at any time by the board;

8. the fee for initial AIHE registration is paid.

D. Registration as an approved institution of higher education shall be renewed annually, provided:

1. a satisfactory renewal form is received prior to the expiration date of the current registration;

2. the annual audit report of the institution's substance abuse counselor curriculum and continuous quality improvement program, signed by a registered counselor supervisor, is filed with the board;

3. the renewal of AIHE registration fee is paid;

4. there have been no unresolved complaints against the institution.

E. An approved institution of higher education shall be authorized to:

1. announce to the public and advertise the availability of its substance abuse counselor curriculum;
2. offer practicum or internship courses in substance abuse counseling for credit;
3. reasonably assure its students that their education will meet board standards.

F. Persons submitting application for certification which list education from institutions which are not registered as an AIHE shall document that the educational institution where the education was obtained meets standards equivalent to those of this board. Equivalence may be demonstrated by:

1. the institution holding approval as a higher education provider of substance abuse counselor education from the certifying authority in the state where the institution is located;
2. the institution holding approval as a higher education provider of substance abuse counselor education from a certifying authority with which the board has a current agreement of reciprocity;
3. providing documentation of:
 - a. the institution being an organized college or university accredited by a recognized regional accrediting body;
 - b. the appropriateness of the curriculum;
 - c. the qualifications of the faculty to teach such courses;
 - d. the policy on practicum and internship courses;
 - e. that education, training, experience, and supervision when appropriate in all 12 core functions was provided.

G. Persons submitting application for certification which claim more than 15 semester hour equivalents must provide documentation demonstrating that a minimum of 15 semester hours of credit were not reasonably available from an AIHE. The board in its discretion may grant additional semester hour equivalents for cases of documented hardship at the rate of 10 clock hours of AEP education per one semester hour of AIHE credit provided a written request for waiver is submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Chapter 19. Miscellaneous

§1901. Injunctive Relief; Penalties

A. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provision of these rules and regulations.

B. In a suit for an injunction, the board through its chairman, may demand of the defendant a penalty of not less than \$100 nor more than \$1,000, and attorney's fees besides the costs of court. The judgment for penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction is made absolute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1903. Persons and Practices Not Affected

A. Nothing in these rules and regulations shall be construed as preventing or restricting the practice, services, or activities of any person licensed or certified in this state by any other law from engaging in the profession or occupation for which he is licensed or certified.

B. Nothing in these rules and regulations shall be construed as prohibiting other licensed professionals, including members of the clergy and Christian Science practitioners, from the delivery of medical, psychotherapeutic, counseling, social work, psychological, or educational services to substance abusers and their families.

C. Nothing in these rules and regulations shall be construed as prohibiting the activities of any person employed or supervised by a qualified professional supervisor, while carrying out specific tasks under professional supervision. The supervisee shall not represent himself to the public as a substance abuse counselor.

D. Nothing in these rules and regulations shall be construed as prohibiting the activities of any student in an accredited educational institution while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a qualified professional supervisor. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1905. Prohibited Activities

No person shall hold himself out as a substance abuse counselor unless he has been certified as such under the provisions of the Substance Abuse Counselor Certification Act, R.S. 37:3371-84.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

§1907. Penalties

Whoever violates any provisions of the Substance Abuse counselor Certification Act, R.S. 37:3371-84, shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$100 nor more than \$500, or imprisonment for not more than 6 months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3374(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Louisiana State Board of Certification for Substance Abuse Counselors, LR 19: (May 1993).

Thomas C. Tucker, Ph.D.
Chairman

RULE

Department of Health and Hospitals Office of Public Health

Sanitary Code—Consumer Alert on Oysters

The Department of Health and Hospitals, Office of Public Health, has amended Chapters IX, XXII, XXIII, and XXIII A of the State Sanitary Code as they relate to the wording of the warning associated with eating raw oysters. They are amended as follows:

Chapter IX. Seafood

Change 9:045 to read:

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

Add 9:045-1:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Change last paragraph of 9:051-1 to read:

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

Change 9:051-2 to read:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Change 9:051-2 to 9:051-3

Chapter XXII. Retail Food Establishments: Markets

Change 22:018-2 to read:

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH

OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

Add 22:018-3:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Chapter XXIII. Eating and Drinking Establishments

Change 23:006-4 to read:

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

The use of "table tents" on all tables may be used in lieu of the menu notice. Oyster bars may use "table tents" in lieu of the menu notice at the rate of one "table tent" for every four customer spaces.

Add 23:006-5:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

Chapter XXIII A. Temporary Food Service

Change 23A:005-4 to read:

All establishments that sell or serve raw oysters must display signs, menu notices, table tents, or other clearly visible messages at point of sale with the following wording:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

In addition, this message must appear on the principal display panel and top of containers of pre-packaged raw oysters. This may be done by printing on the container or by pressure sensitive labels.

In addition, the following message must appear on the tag of each sack or other container of unshucked raw oysters:

THERE MAY BE A RISK ASSOCIATED WITH CONSUMING RAW SHELLFISH AS IS THE CASE WITH OTHER RAW PROTEIN PRODUCTS. IF YOU SUFFER FROM CHRONIC ILLNESS OF THE LIVER, STOMACH OR BLOOD OR HAVE OTHER IMMUNE DISORDERS, YOU SHOULD EAT THESE PRODUCTS FULLY COOKED.

The use of "table tents" on all tables may be used in lieu of the menu notice only. Oyster bars may use "table tents" in lieu of the menu notice at the rate of one "table tent" for every four customer spaces.

Add 23A:005-5:

These changes will become effective August 20, 1993. For those individuals and/or establishments currently using the message previously approved by the State Health Officer, they may have additional time to use existing supplies not to exceed February 20, 1994.

J. Christopher Pilley
Secretary

RULE

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

Certified Medicaid Enrollment Centers

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R. S. 49:950 et seq.

RULE

Certified Medicaid enrollment centers are eligible for a 50 percent cost reimbursement to offset administrative costs incurred during the process of taking Medicaid applications. Reimbursement is granted in the form of a uniform, flat-fee rate on a per-application basis.

This rate is established by calculating the weighted-average hourly cost associated with completing a typical Medicaid application form. This calculation is generated through a random sampling survey which will be conducted by the Bureau of Health Services Financing.

Reimbursement is only issued on those applications which are taken by certified individuals. The application does not

have to be approved by the regional Medicaid eligibility office in order for the reimbursement to be issued. However, certified enrollment centers are subject to an audit program, and based on audit findings, any enrollment center that has above-average denial rates for the applications which it has submitted will be ineligible for reimbursement until such time that the respective enrollment center lowers its denial rate to a point within the established norm.

Enrollment centers are responsible for submitting a cost reimbursement form which is provided by the Bureau of Health Services Financing.

The format, structure and detailed requirements of this cost reimbursement program are subject to change upon final approval of the Health Care Financing Administration.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

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

Chronically Mentally Ill Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the rule for the provision of case management services to the chronically mentally ill. This rule was previously published in the LR 15:478 (June 1989).

In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider to the chronically mentally ill to be "approved by the Office of Human Services as having a comprehensive and adequate plan for the delivery of services in accordance with standards for case management." This approval has also been referred to as having an affiliative agreement. This portion of the provider enrollment process is replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements are met. Therefore, the text of the original rule is amended as noted below and this change is incorporated in the provider manual.

RULE

* * *

2. Standards for Participation

A - C. ...

D. sign a notarized letter of assurance that the requirements of Medicaid of Louisiana will be met.

* * *

J. Christopher Pilley
Secretary

RULE

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

Community Care Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program.

RULE

Medicaid of Louisiana is operating the Community Care Program under a waiver of freedom of choice under the authority of Section 1915(b)(1) of the Social Security Act. The Community Care Program is administered in accordance with all regulations applicable to the program and the waiver request document approved by the U.S. Department of Health and Human Services.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and the current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

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

High-Risk Pregnancy Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the rule for the provision of case management services to high-risk pregnant women. This rule was previously published in the LR 15:480 (June 1989).

In order to comply with recent federal interpretations of policy for case management services, the Bureau is no longer requiring an applicant for enrollment as a provider to be "certified by the Office of Public Health as having adequate programming and administration to provide the service effectively and efficiently." This approval has also been referred to as having an affiliative agreement. This portion of the provider enrollment process is replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements are met. Therefore, the text of the original rule is amended as noted below and this change is incorporated in the provider manual.

**RULE
* * ***

- 2. Standards for Participation
A - B. ...

C. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

* * *

J. Christopher Pilley
Secretary

RULE

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

HIV Disabled Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the rule for the provision of case management services to persons disabled by HIV. This rule was previously published in the LR 15:479 (June 1989).

In order to comply with recent federal interpretations of policy for case management services, the bureau requires a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements are met. Therefore, the text of the original rule is amended as noted below and this change is incorporated in the provider manual.

**RULE
* * ***

- 2. Standards for Participation
A - C. ...

D. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

* * *

J. Christopher Pilley
Secretary

RULE

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

ICF/MR Facility Residents Medical Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule providing for the reimbursement of extraordinary medical care services for Title XIX long term care ICF/MR patients under the Medicaid Program.

RULE

The Bureau of Health Services Financing has implemented a reimbursement for extraordinary care services provided to mentally retarded persons in ICF/MR facilities under the Medicaid Program. Calculation of an individual prospective

flat rate amount for each extraordinary medical care beneficiary is determined based on actual costs of providing these services for each individual. Costs for extraordinary care are segregated from other long term care costs by means of a separate cost report. No duplication of cost is allowed and allowable cost is in accordance with Medicare principles of determining allowable cost found in the Provider Reimbursement Manual (HIM-15).

Medicaid reimbursement of the extraordinary medical care cost is made only under the following condition:

The department has reviewed and approved each patient's plan of care and determined that the extraordinary medical services included are based upon medical necessity and are not provided in the current per diem rate.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

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

Mentally Retarded/Developmentally Disabled Case Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the rule for the provision of case management services to the mentally retarded/developmentally disabled. This proposed rule was previously published in LR 16:312 (April 1990).

In order to comply with recent federal interpretations of policy for case management services, the bureau is no longer requiring an applicant for enrollment as a provider to be "certified by the Office of Mental Retardation/Developmental Disabilities as having adequate programming and administration to provide the service effectively and efficiently." This approval has also been referred to as having an affiliative agreement. This portion of the provider enrollment process is replaced with a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements are met. Therefore, the text of the original rule is amended as noted below and this change is incorporated in the provider manual.

RULE

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2. Standards for Participation

A - B. ...

C. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

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J. Christopher Pilley
Secretary

RULE

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

Non-emergency Medical Transportation Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing (hereinafter referred to as the bureau), has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(A).

RULE

The following additional regulations are implemented in the non-emergency medical transportation program.

A. Enrollment Requirements:

1. a \$5000 performance bond, letter of credit or cashier's check payable to the Bureau of Health Services Financing is required;

2. a provider must wait 90 calendar days from the date his enrollment process is otherwise complete before starting to do business as a Title XIX provider of transportation services;

3. during the 90 day period a provider must publish a notice of intent to do business in the newspaper which is circulated in his geographic area (said notice to be formatted by the bureau);

4. at the time of enrollment the provider must stipulate as to whether each vehicle will be used for service to ambulatory or non-ambulatory beneficiaries;

5. each vehicle is subject to enrollment and annual inspection by the bureau. An inspection fee as determined by the bureau will be charged;

6. each vehicle must display a decal issued by the bureau; the decals will be issued for each approved vehicle upon completion of inspection beginning January 21, 1993. All currently enrolled providers of Title XIX transportation services must have each vehicle used in the transportation of beneficiaries inspected and decal no later than April 20, 1993;

7. all enrolled vehicles must have a painted sign in two-inch high letters displaying the name of the enrolled provider and his telephone number;

8. identification must be uniform on all provider enrollment documents, vehicle registration, inspection certificate, business logo and any other items belonging to the provider;

9. each provider of Title XIX transportation services must be covered by general liability insurance on the business entity with a minimum coverage of \$300,000 Combined Single Limit of Liability;

10. each provider must submit a notarized certificate of insurance on each vehicle;

11. all vehicle drivers must have a valid Class D (Chauffeur) license;

12. all drivers must be 25 years of age or older and proof of this must be documented in driver's personnel file;

13. all drivers must have completed a defensive driving course accredited by The National Safety Council and proof of this must be documented in driver's personnel file;

14. a participating provider must own or lease all vehicles and provide proof that vehicle registration is in the name of the company. If a vehicle is under lease the period of the lease must run concurrently with the inspection period;

15. enrolled vehicles are to be used for business purposes only except in emergency situations. If an emergency necessitates the use of a vehicle for purposes other than business, the nature of the emergency and the mileage involved must be documented on the vehicle log;

16. a provider must give the geographic location of the main office and/or substation of the business, and the geographic location of where vehicles are garaged overnight; and

17. a provider must limit his service area to the geographic boundaries established by the bureau. Any exception to this restriction must be approved by the bureau.

B. On-going Requirements:

1. all vehicles are subject to annual inspection and must meet all requirements of the Transportation Program (except 90 day waiting period and the publication requirement);

2. all driver changes must be reported to the bureau within five working days;

3. a provider must notify the bureau of any change in vehicle(s) and comply with all enrollment requirements prior to placing a vehicle in service;

4. any provider whose vehicle is involved in an accident must give pertinent information on the insurance coverage of the vehicle to the other person(s) involved in the accident and the investigating authority;

5. all accidents must be reported to the bureau within 72 hours;

6. a separate log of total use and mileage must be maintained on each vehicle;

7. each vehicle is to be used for business purposes only except in an emergency and documentation must be made as to the nature of the emergency and the mileage involved;

8. any change in geographic location of the main office or substation, or in the geographic location of where the vehicles are garaged overnight must be reported to the bureau prior to the change;

9. a provider must report the reason for the termination of any driver within five working days of the date of the termination; and

10. a provider must not offer any type of inducement or incentive to a Title XIX beneficiary in order to solicit that beneficiary for transportation services or to secure that beneficiary's transportation "business" (i.e. handbill distribution is prohibited, verbal solicitation of clients at medical facilities is prohibited, etc.). To do so will result in sanctions against the provider of service.

C. Sanctions:

1. a transportation provider or company who is the subject of multiple valid complaints from recipients or medical providers is subject to sanction (\$100 for first occurrence, \$500 for second occurrence and \$1000 for third occurrence);

2. failure to maintain a log of total use and mileage is subject to sanction at \$1000 per day per vehicle;

3. a vehicle in service without a decal is subject to sanction at \$1000 per day;

4. driver not covered by program is subject to sanction at \$1000 per day;

5. lack of required insurance is subject to sanction at \$1000 per day per vehicle;

6. failure to timely report termination of a driver is subject to sanction of \$100 per day;

7. failure to timely report accidents is subject to sanction of \$100 per day;

8. failure to properly maintain vehicle is subject to sanction at \$100 for first occurrence, \$500 and surrender of decal for second occurrence and \$1000 and surrender of decal for third occurrence;

9. a provider is subject to partial or total hold of vendor payment while under review if suspected of improper billing practices; and

10. a provider who offers inducements or incentives in an attempt to capture business is subject to sanction which may include but not be limited to suspension and/or termination from the program.

D. Suspensions/Terminations. Effective July 1, 1993, providers may be subject to immediate suspension or termination if a provider audit shows there are substantial discrepancies in billing practices.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

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

Specified Low-Income Medicare Beneficiaries

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted the following rule in the Medicaid Program in accordance with the Administrative Procedure Act, R.S. 49:953(A).

RULE

Medicaid of Louisiana is paying the Medicare Part B premiums for the specified low-income Medicare beneficiaries in accordance with the Omnibus Reconciliation Act of 1990. Eligibility for this benefit include the following criteria. Prospective eligibles must be enrolled or conditionally enrolled in Part A of Medicare. In addition, their incomes must be between the allowed limit for the Qualified Medicare Beneficiaries population and the maximum limit specified for the Specified Low-Income Medicare Beneficiaries as required by federal regulations. The resource limit for this population

must not exceed two times the Supplemental Security Income resource limit and they must meet all other non-financial eligibility requirements for Medicaid of Louisiana.

Disapproval of this change by HCFA will automatically cancel the provisions of this rule and current policy will remain in effect.

J. Christopher Pilley
Secretary

RULE

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

**Targeted Case Management for Developmentally
Delayed Infants and Toddlers**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the rule for the provision of case management services to developmentally disabled infants and toddlers. This rule was previously published in LR 18:849 (August 1992).

In order to comply with recent federal interpretations of policy for case management services, the bureau requires a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements are met. Therefore, the text of the original rule is amended as noted below and this change is incorporated in the provider manual.

**RULE
* * ***

II. Specific Provider Responsibilities

1. The provider must sign a notarized letter of assurance that the requirements of Louisiana Medicaid are met.

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J. Christopher Pilley
Secretary

RULE

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

Ventilator Assisted Children Care Management

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has amended the rule for the provision of case management services to ventilator assisted children. This rule was previously published in the LR 12:835 (December 1986).

In order to comply with recent federal interpretations of policy for case management services, the bureau will now require a notarized letter of assurance from the provider that Medicaid requirements regarding recipient eligibility, provider staff qualifications and other requirements will be met. Therefore, the text of the original rule is amended as noted below and this change is incorporated in the provider manual.

**RULE
* * ***

2. Standards for Participation

A - C. ...

D. sign a notarized letter of assurance that the requirements of Louisiana Medicaid will be met.

*** * ***

J. Christopher Pilley
Secretary

RULE

**Department of Public Safety and Corrections
Corrections Services**

Adult Inmates Disciplinary Rules (LAC 22:I:Chapter 3)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Corrections Services, hereby gives notice of its repeal of LAC 22:I.341-439 and adoption of new rules and regulations, all relative to the manual of Disciplinary Rules and Procedures for Adult Inmates.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT**

Part I. Corrections

Chapter 3. Adult and Juvenile Services

Subchapter B. Disciplinary Rules for Adult Prisoners

§341. Preface

A. These disciplinary rules and procedures constitutes clear and proper notice of same for each adult inmate within the Department of Public Safety and Corrections.

B. These rules and regulations take effect February 15, 1993.

C. These rules and regulations supersede any and all conflicting disciplinary rules, procedures, posted policies, and appeal decisions affecting adult inmates that may have been previously issued.

D. Nothing in these rules and regulations should be construed to create any additional rights or privileges under either state or federal law for any inmate or groups of inmates over and above those already provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§343. Foreword

A. The "Disciplinary Rules and Procedures for Adult Inmates" are established to help provide structure and organization for the prisons, and a framework within which the inmate population can expect the disciplinary system to function. They must be followed at all adult and contract facilities.

B. These rules, regulations, and procedures may only be changed by the secretary of the Department of Public Safety and Corrections.

C. In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the secretary or his designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those inmates who were subject to serious sanctions (those that would have been appealable to the secretary under the provisions of these rules).

D. The pronouns "he" and "his" as they appear herein are used for convenience only and are not intended to discriminate against female employees or inmates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§345. Definitions

Administrative Segregation (formerly referred to as *Administrative Lockdown*)—a temporary holding area, preferably a cell, where inmates are held whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, the security or orderly running of the institution, or who are the subject of an investigation conducted by non-institutional authorities. In addition, inmates who are pending transfer to another institution or pending assignment or re-assignment within an institution may be held in *Administrative Segregation*. (Refer to section on "Disciplinary Procedures - Administrative Segregation".)

Appeal—a request by an inmate for review of a disciplinary decision. (Refer to section on "Appeals".)

Confidential Informant—person whose identity is not revealed to the accused inmate but who provides an employee(s) with information concerning misbehavior or planned misbehavior.

Counsel and Counsel Substitutes—*Counsel* is an attorney at law of the inmate's choice who must be retained by the inmate. *Counsel Substitutes* are persons not admitted to the practice of law, but inmates who aid and assist, without cost, an accused inmate in the preparation and presentation of his defense and/or appeal.

Custody—the type of housing and the level of supervision required for an inmate. Custody assignments will reflect public safety as the first priority, staff and inmate safety within the institution as the second priority, and then institutional or inmate need.

Disciplinary Detention/Extended Lockdown—maximum security area for confining inmates. (Refer to section on "Disciplinary Procedures - disciplinary Detention/extended

lockdown".)

Disciplinary Detention/Isolation—a punitive holding area where inmates are temporarily confined in a restricted situation after being so sentenced by the disciplinary board. (Refer to section on "Disciplinary Procedures - Disciplinary Detention/Isolation".)

Disciplinary Report—a report on the approved form filed by an employee who has reason to believe of his own knowledge that an inmate(s) has violated one or more disciplinary rules. Disciplinary reports may be heard by the disciplinary officer or the disciplinary board.

Hearings—a fair and impartial review conducted by the disciplinary officer or the disciplinary board.

Incident Report—a report on the approved form filed by an employee describing an instance of planned or committed misbehavior (usually filed when the information is obtained through sources other than the reporting employee's firsthand knowledge--sources such as confidential informants, other inmates, or non-employees), or to describe planned or committed misbehavior that may not be defined under a specific rule description. In addition, a document that may be used to review the appropriateness of a custody or classification assignment. Incident reports are heard by the disciplinary board.

Investigation Report—a report submitted for disposition to the disciplinary board detailing the facts uncovered in an investigation.

Maximum Custody—assignment of an inmate to a cell based upon the need to protect the inmate, other inmates, the public, staff, or the institution. Includes disciplinary Detention/extended lockdown and working cellblocks. May include protective custody/extended lockdown. Movements inside the secure perimeter of a facility by maximum custody inmates are closely monitored by staff and may include the utilization of restraints in accordance with institutional policy. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained.

Medium Custody—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is accomplished only under armed supervision or when appropriately restrained. Institutional procedure governs internal movement controls.

Minimum Custody—generally, assignment of an inmate to a dormitory housing area. Movement outside of a secure perimeter is usually authorized without armed supervision or restraint. Institutional procedure governs the level of staff supervision when outside the secure perimeter, as well as internal movement controls.

Posted Policy—as used herein, applies to policy memorandums detailing what behavior is required or forbidden of inmates and generally reflects the individual needs of the facility—such as, but not limited to, count procedure, off-limits areas, ID Card policy, cash money policy, and so forth. Posted policies must be distributed and posted in such a manner that inmates are placed on notice as to what behavior is required or forbidden, and the actions that may be taken should the policy be violated. (See Department Regulation No. 30-47.)

Protective Custody/Extended Lockdown—a classification

utilized when an inmate has a verifiable need for protection. (Refer to section on "Disciplinary Procedures - Protective Custody/Extended Lockdown".)

Sanction—disciplinary penalty.

Security—the physical construction characteristics of the facility in terms of both perimeter security, building construction type, and internal movement controls.

Segregation—generic term used to encompass administrative segregation, protective custody, and disciplinary detention.

Working Cellblock—a form of maximum custody distinguished by access to work and other programs consistent with security restrictions and institutional procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§347. Disciplinary Procedures

A. General Segregation Guidelines - Mental Health

A mental health professional (as defined by the responsible health authority at the institution) must document a personal interview with any inmate who remains in administrative segregation, protective custody, or disciplinary detention for more than 30 consecutive days. A mental health assessment must be made at least every three months thereafter if confinement is continuous.

B. Administrative Segregation Guidelines

1. An inmate whose continued presence in the general population poses a threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution, or who is the subject of an investigation conducted by non-institutional authorities, may (with the approval of the highest ranking supervisor on duty in the unit where the incident occurred), be placed in administrative segregation until his appearance before the disciplinary board. The official, before the conclusion of his tour of duty, will review documentation for completeness, correctness, and investigate as needed to confirm the reasonableness of the allegation or circumstances prompting placement.

2. Inmates pending possible transfer to another facility, or pending assignment or re-assignment within an institution, may be held in administrative segregation. Inmates in administrative segregation pending such transfer will be entitled only to privileges allowed other inmates in administrative segregation.

3. Upon the request of an inmate or upon issuance of an "Incident Report" by appropriate institutional staff, an inmate may be placed in administrative segregation for his protection and/or the protection of others until the disciplinary officer/disciplinary board can review the circumstances and recommend appropriate action.

4. Time spent in administrative segregation must be credited against disciplinary detention/isolation or extra duty sentences even when the sentence is suspended. Credit will not be given for time spent in administrative segregation on a request for protection or while awaiting transfer to another area.

5. Inmates in administrative segregation shall be allowed to receive all correspondence and to originate correspondence. Inmates in administrative segregation will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. The status of inmates in administrative segregation should be reviewed by an appropriate review board at least every seven days for the first two months and every 30 days thereafter.

C. Counsel Substitutes

Behavior of counsel substitutes and legal aid office workers must be above reproach. A job change is mandatory following conviction of a serious offense. Counsel substitutes are not required to file appeals but should inform the inmate who wants to appeal of the proper way to file. All counsel substitutes serve strictly at the discretion of the secretary. They may be removed from their positions if the secretary, or his designee, believes it appropriate. No inmate (counsel substitute or not) can sell or trade for value legal services of any sort. No inmate (counsel substitute or not) may perform services for an attorney on behalf of other inmates.

D. Disciplinary Board

A properly composed board will consist of two people—a duly authorized chairman, and a duly authorized member—each representing a different element (security, administration, or treatment). The chairman must be approved by the secretary. The member must be approved by the warden. Decisions must be unanimous. If the decision is not unanimous, the case is automatically deferred for referral to a different disciplinary board. Any chairman/member directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias".

E. Disciplinary Officer/Low Court Hearing

A *Disciplinary Officer* includes an employee from security, administration, or treatment appointed by the warden who conducts hearings of minor violations and who may impose only minor sanctions. Any disciplinary officer directly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not necessarily constitute "direct involvement" or "bias". At these hearings, the accused inmate represents himself and is given full opportunity to speak in his own behalf. The presence of counsel substitutes, witnesses, or the accusing employee is not permitted. These hearings are not taped. Hearings shall be held within seven days of the incident, excluding weekends and holidays. The disciplinary officer may also hear inmates who have signed written requests for protection and may recommend appropriate action.

F. Disciplinary Detention/Extended Lockdown

1. An indeterminate period of lockdown characterized by routine 90 day classification reviews to determine eligibility/suitability for release from this status is known as *Disciplinary Detention/Extended Lockdown*. This type of segregation is used primarily after a disciplinary hearing for an inmate found guilty of violating one or more serious rules, or

of being dangerous to himself or others, or of being a serious escape risk, or of posing a clear threat to the security of the facility. A classification board hearing is sufficient for an inmate who is initially classified as maximum custody.

2. Inmates in disciplinary detention/extended lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every 90 days.

G. Disciplinary Detention/Isolation

1. A determinate period of lockdown that is characterized by a limit of 10 consecutive days without a 24 hour break or no more than 20 days in a 30 day period is known as *Disciplinary Detention/Isolation*. After 10 consecutive days in disciplinary detention/isolation, the inmate must be released for a period of time not less than 24 hours. No inmate may be confined in disciplinary detention/isolation except by action of the disciplinary board on the basis of a disciplinary or incident report.

2. Inmates in disciplinary detention/isolation shall be allowed to receive all correspondence and to originate correspondence. Inmates in disciplinary detention/isolation will be allowed: visits; clean clothing on a scheduled basis; toothbrush and toothpaste; sufficient heat; light; ventilation; toilet facilities; and the same meals as other inmates. Desserts may be excluded from meals served to disciplinary detention/isolation inmates.

H. Protective Custody/Extended Lockdown

1. Utilized for an inmate in need of protection. A disciplinary board hearing is not necessary when an inmate has signed a written request for protection and is transferred to protective custody/extended lockdown by the disciplinary officer/disciplinary board.

2. Inmates in protective custody/extended lockdown should be reviewed by an appropriate review board for possible release to a less restricted status at least every seven days for the first two months and every 30 days thereafter.

I. Working Cellblock

An indeterminate period of assignment to a maximum custody status characterized by access to work and other programs consistent with security restrictions and institutional procedures. Classification reviews are utilized to determine eligibility/suitability for release from this status. This type of assignment is used primarily after a disciplinary hearing for an inmate found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of being in need of protection, or of posing a clear threat to the security of the facility. A classification board hearing is sufficient for an inmate who is initially classified as maximum custody.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§349. Hearings

A. Disciplinary Board

The accused inmate must be given a written copy of the disciplinary report or incident report describing the charges against him at least 24 hours before the hearing begins (unless waived by the inmate in writing). Before the hearing can begin, accused inmates must acknowledge that they are familiar with their rights. These rights are:

1. the right to present evidence and witnesses in his behalf, provided the request is relevant, not repetitious, not unduly burdensome to the institution, or not unduly hazardous to staff or inmate safety. (The board has the option of stipulating expected testimony from witnesses. In such a case, the board should assign proper weight to such testimony as though the witness had actually appeared.);

2. the right to counsel substitute for all alleged violations. The right to outside retained counsel only when the alleged violation is one for which the inmate could also be tried in a criminal court, e.g., possession of illegal drugs, rape, aggravated battery, etc.;

3. no inmate can be compelled to incriminate himself;

4. the right to a written summary of the evidence and reasons for the judgment, including reasons for the sentence imposed, when the accused pled not guilty and was found guilty. (This will usually appear on the finalized report.);

5. the right to appeal consistent with the appeal procedure as outlined; and

6. the hearing must begin within 72 hours of placement in administrative segregation. Official holidays, weekends, genuine emergencies, or good faith efforts by the administration to provide a timely hearing are the only exceptions. When it is not possible to provide a full hearing within 72 hours of placement in administrative segregation, the accused must be brought before the board, informed of the reasons for the delay, and be remanded back to administrative segregation or released to his quarters after a date for a full hearing has been set.

B. Conduct of the Hearing

All rights and procedural requirements must be followed unless waived by the accused. Disciplinary board hearings must be tape recorded in their entirety, and the tapes preserved for 145 days. Hearings will generally be conducted as follows:

1. Inmates who do not choose to be present can sign a waiver which shall be read into the tape. Counsel substitute shall represent him. The same applies to disruptive inmates who refuse to cooperate. If the inmate refuses to sign a waiver, one shall be prepared and his refusal noted with two witnesses. In either case, the disciplinary chairman should also sign the waiver.

2. The accused enters his name and number into the record (the tape) as does his counsel or counsel substitute (if any) and confirms that he understands his rights. During the hearing, the accuser should only be present to testify. He may never be present during deliberations.

3. The chairman reads the disciplinary and/or incident report to the accused and asks for a plea. Available pleas are *not guilty* or *guilty*. Should the accused attempt to enter an unavailable plea or refuse to enter a plea, the chairman will enter a *not guilty* plea for him and proceed with the case.

4. Preliminary motions, if any, by the defense should now be made. Such motions must be raised at the first opportunity

or be considered waived and may include:

- a. dismissal of the charge(s);
- b. a continuance (Inmates are not entitled to a continuance to secure counsel unless they are charged with a violation which is also a crime under state law. Only one continuance need be granted unless new information is produced. Therefore, all requests—to face accuser, call witness, etc.—must be made at once. A motion due to lack of 24-hour notice must be made at this time.);
- c. an investigation;
- d. cross examination of the accusing employee (the accusing employee must be summoned only when the report is based solely on information from confidential informants);
- e. any other appropriate motions.

5. The board should rule on motions at the appropriate time and should give reasons for the ruling;

6. After entering his plea and motions, if any, the accused may present his defense. The board may ask questions of the accused, his witnesses, and/or his accuser. No inmate can be compelled to incriminate himself;

7. During deliberations, everyone except the board, the bailiff, and any official observers must leave the room, and the board will decide the case on the basis of the evidence presented at the hearing. Official observers must not take part in the hearing or the deliberations. The bailiff cannot participate in deciding the case or the sentence, and must not participate in the hearing at all when he is the accusing employee, unless he is summoned to testify under cross-examination. The accused's record may be examined to discover a pattern of similar misbehavior or a pending suspended sentence. The record may be examined in order to determine an appropriate sentence; and

8. Following the deliberations, the chairman will announce the verdict. If the verdict is guilty, the chairman will then announce the sentence. The board has full authority to suspend any sentence they impose for a period of up to 90 days.

9. A written summary of the evidence presented and reasons for the judgment (includes reasons for the sentence imposed) will be prepared in all cases that the accused pled *not guilty* and was found *guilty*. The convicted inmate will automatically be given or sent a written summary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§351. Correcting Disciplinary Reports

A. A reviewing employee may change the rule number to fit the description prior to the hearing but should ensure that the accused gets a corrected copy of the report at least 24 hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report. An incident may consist of several related events, however, each separate and distinct rule violation should be processed independently in the disciplinary system.

B. Before the hearing begins, the board may change the rule number to match the description of alleged misbehavior, if necessary, and also may change the rule number at any point prior to the deliberations, but should offer the accused a continuance to prepare the defense. It is the description of the conduct and not the rule number which determines the offense. The continuance may be waived and does not necessarily need to be for 24 hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§353. Hearings of Incident Reports

When the report is based solely on information from a confidential informant, or from an inmate whose identity is known, it must be corroborated by witnesses (who may be other confidential informants, the record, or other evidence.) The only time the accusing employee must be summoned for cross examination is when the report is based solely on information from confidential informants. In order for the accuser to attest to the reliability of the information received from a confidential informant, the informant must not have been unreliable in the past and must have legitimate knowledge of the present incident(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§355. Sanctions

A. Sentences must fit the offense and the offender. An inmate with a poor conduct record may receive a more severe sentence than an inmate with a good conduct record for the same offense. Even so, serious offenses call for serious penalties. An inmate who violates more than one rule or the same rule more than once during an incident may receive a permissible sanction for each violation. After a finding of guilt for a new violation, a previously suspended sentence may be imposed as well as a new sentence. State and federal laws apply to inmates. In addition to being sanctioned by prison authorities, therefore, inmates may also be prosecuted in state or federal court for criminal conduct. Restitution imposed in accordance with Department Regulation No. 30-41 is not a disciplinary penalty and may be assessed in addition to all other permissible penalties.

B. An inmate who has established a documented pattern of behavior indicating that he is dangerous to himself or others is a habitual offender. This includes an inmate who has been convicted of three major violations or a total of five violations in a six month period. Major violations are Schedule B offenses and incident reports concerning escape, violence, strong-arming, theft, smuggling of contraband, or threats to security. A habitual offender may receive Schedule B

penalties following conviction of a Schedule A offense when he has established a documented pattern of hostile or disruptive behavior as defined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§357. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Officer)

A. After a finding of guilt, the disciplinary officer may impose one or two of the penalties below for each violation:

1. reprimand;
2. extra duty—up to four days for each violation;
3. loss of minor privilege for up to two weeks.

B. *Extra Duty*—work to be performed in addition to the regular job assignment as specified by the proper authority. One day of extra duty is eight hours of work.

C. Minor privileges are:

1. radio and/or TV;
2. recreation and yard activities;
3. telephone (except for emergencies and legal);
4. movies;
5. loss of canteen privileges;
6. any other similar privilege (example: hobbycraft).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§359. Penalty Schedule. Disciplinary Report (Heard by Disciplinary Board)

A. After a finding of guilt, the disciplinary board may impose one or two of the penalties below:

1. Schedule A
 - a. reprimand;
 - b. loss of minor privilege for up to two weeks;
 - c. extra duty - up to four days for each violation;
 - d. disciplinary detention/isolation - up to five days for each violation;
 - e. loss of good time - up to one-half of the amount earned by the inmate for one month;
 - f. quarters change;
 - g. job change;
 - h. loss of plasma privileges - up to four visits.
2. Schedule B
 - a. reprimand;
 - b. loss of minor privilege for up to four weeks, unless violation involved abuse of that privilege - eight weeks;
 - c. loss of major privilege as designated below;
 - d. extra duty - up to eight days for each violation;
 - e. disciplinary detention/isolation - up to 10 days for each violation;
 - f. loss of good time - up to the amount earned by the inmate for one month;

- g. quarters change;
- h. job change;
- i. loss of hobbycraft - up to six months;
- j. custody change from minimum to medium custody status (imposition of this penalty may include transfer to another institution);

k. custody change from minimum or medium custody status to maximum custody status (working cellblock or disciplinary detention/extended lockdown). (Imposition of this penalty may include transfer to another institution.)

3. Extra duty and minor privileges are defined above. Major privileges are:

- a. confinement to room or cell for up to one month;
- b. loss of visiting, if the violation involves visiting, for up to three months;
- c. loss of plasma privileges for up to 12 visits unless it falls into the special category designated by the secretary for self-mutilation;
- d. any other similar privilege.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§361. Penalty Clarifications

A. Good Time

The date of the offense controls the month for which an inmate fails to earn good time through disciplinary action (such "failure to earn" occurring for the month during which the offense was committed). An inmate can only lose as much good time as he can earn.

B. *Penalty Schedule*—incident report (heard by disciplinary board)

After a finding of guilt, the disciplinary board may impose Schedule B sanctions as previously defined, may make a recommendation of transfer to another institution, or may place the inmate in protective custody/extended lockdown.

C. Restitution

Restitution may be obtained by a disciplinary board in accordance with Department Regulation No. 30-41 from an inmate who damages or destroys property, causes or attempts to cause injury to himself, other inmates and/or staff, or who has a pattern of alleging injury or illness with the result that medical expenses are incurred and after a finding of guilt by a disciplinary board following a full (due process) hearing. Restitution is not a disciplinary penalty.

D. Suspended Sentences

The disciplinary officer or the disciplinary board may suspend any sentence they impose for a period of up to 90 days. The period of suspension begins on the date of sentence. When the time period has expired, the report itself remains a part of the record, although the sentence may no longer be imposed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of

Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§363. Appeals

A. Appeals to the Disciplinary Board

1. An inmate who wants to appeal a case heard by the disciplinary officer ("Low Court") must appeal to the disciplinary board ("High Court"). As soon as the sentence is passed, the inmate who wants to appeal must clearly say so to the disciplinary officer who will then automatically suspend the sentence and schedule the case for the disciplinary board. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board. The disciplinary board cannot upgrade the sanction imposed by the disciplinary officer.

2. The appeal to the disciplinary board will be the final appeal in a case heard by the disciplinary officer. No other appeals are allowed. The appeal from the disciplinary officer to the disciplinary board will constitute the final administrative remedy regarding the disciplinary decision. Decisions rendered by the disciplinary officer and appealed to the disciplinary board may not be appealed to the warden nor to the secretary.

B. Appeals to the Warden

1. An inmate who wants to appeal a case heard by the disciplinary board ("High Court") must, in all cases, appeal to the warden. The inmate may appeal himself or through counsel or counsel substitute. In either case, the appeal must be received within 15 days of the hearing. The appeal should be clearly written or typed on Form AF-1. If the form is not available, the appeal may be on plain paper but should contain the information called for on the form. The warden will render all appeal decisions within 30 days of the date of receipt of the appeal unless circumstances warrant an extension of that time period and the inmate is notified accordingly.

2. Lengthy appeals of disciplinary actions will not be accepted into the appeals process. It is necessary only that the inmate provide basic factual information regarding his case. Appeals that are too long will be returned to the inmate for summarization. The inmate will have five days from receipt to comply with the instructions and resubmit. It is important to remember that our ability to respond to legitimate problems in a timely fashion depends upon everyone's cooperation.

C. Appeals to the Secretary

1. An inmate who wants to appeal the decision of the warden to the secretary will indicate that he is "not satisfied" in the appropriate box on the warden's "Appeal Decision" (Form AF-2) and submit it to the ARP Screening Officer. The form must be submitted within five days of its receipt by the inmate. No supplement to the appeal will be considered. It is only necessary that the inmate check the box indicating "I am not satisfied", date, sign, and forward to the ARP Screening Officer. The ARP Screening Officer will provide the inmate with an acknowledgement of receipt and date forwarded to the secretary's office. The institution will provide a copy of the inmate's original appeal to be attached to the Form AF-2 for submission to the secretary.

2. The secretary will only consider appeals from decisions

of the warden which resulted in an imposed or suspended sentence of one or more of the following penalties:

- a. disciplinary detention/isolation;
- b. loss of good time;
- c. custody change from minimum to medium only if it involves transfer to another institution;
- d. custody change to maximum custody.

3. In addition, all "Restitution" assessments may be appealed to the secretary.

a. The secretary will render all appeal decisions within 85 days of the receipt of the appeal, unless circumstances warrant an extension of that time period and the inmate is notified accordingly. Absent unusual circumstances, the secretary will only consider review of the "Sentence" of an inmate who pled guilty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§365. Disciplinary Rules

A. An inmate found guilty of violating one or more of the rules defined below will be punished according to the penalty schedule designated in the rule and the type of hearing provided.

B. Contraband (Schedule B)

No inmate shall have under his immediate control any drugs (such as, but not limited to, heroin, LSD, amphetamines, barbiturates, marijuana), unauthorized medication, alcoholic beverage, yeast, tattoo machine, or tattoo paraphernalia, syringe, weapon (such as, but not limited to, firearm, knife, iron pipe), or any other item not permitted by institutional posted policy to be received or possessed, or any other item detrimental to the security of the facility, or smuggle or try to smuggle such items into or out of the facility. In some facilities, where posted, currency is contraband. No inmate shall sell or give away any above defined contraband item. Inmates clearly seen by employees to have contraband in their possession are in violation of this rule. The area of immediate control is an inmate's person, his locker(s), his cell, his room, his bed, his laundry bag, and his assigned job equipment (such as, but not limited to, his desk, his tool box, his locker at the job, his typewriter, or under his bed on the floor) unless the evidence clearly indicated that it belonged to another inmate. Contraband found in a cell shared by two or more inmates will be presumed to belong to all of them equally. Any inmate who is tested for and has a positive reading on a urinalysis test will be considered in violation of this rule. Any item not being used for the purpose for which it was intended will be considered contraband if it is being used in a manner that is clearly detrimental to the security of the facility.

C. Unauthorized Items (Schedule A)

This distinguishes between contraband items that are detrimental to the security of the facility and those that are not authorized but clearly not detrimental to the safety and security of the facility.

D. Rescinded.

E. Defiance (Schedule B)

No inmate shall commit or threaten physically or verbally to commit bodily harm upon an employee. No inmate shall curse or insult an employee and/or his family. No inmate shall threaten an employee in any manner, including threatening with legal redress during a confrontation situation (this does not mean telling an employee of planned legal redress outside a confrontation situation and does not mean the actual composition or filing of a writ or suit.) No inmate shall obstruct or resist an employee who is performing his proper duties. No inmate shall try to intimidate an employee to make the employee do as the inmate wants him to do. Employees shall not be subject to abusive conversation, correspondence, phone calls, or gestures.

F. Disobedience (Schedule A)

Inmates must obey the posted policies for the facility in which they are confined. They must obey signs or other notices of restricted activities in certain areas, safety rules, or other general instructions. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

G. Disobedience, Aggravated (Schedule B)

Inmates must obey direct verbal orders cooperatively and promptly; not debate, argue, or ignore them before obeying. When orders conflict, the last order received must be obeyed. Even orders the inmate believes improper must be obeyed; grievances must be pursued through proper channels. Sentences imposed by the disciplinary officer or the disciplinary board are to be carried out by the inmate. Violations of duty status will apply to this rule as will a violation of an order from the disciplinary board. The only valid excuse for disobedience or aggravated disobedience is when the immediate result of obedience would be bodily injury (this includes incapacity by virtue of a certified medical reason).

H. Disorderly Conduct (Schedule A)

All boisterous behavior is forbidden. This includes, but is not limited to, horseplay, or to disorderly conduct in the mess hall, the visiting room, or during counts. Inmates shall not jump ahead or cut into lines at the store, movie, mess hall, or during group movements of inmates. Visitors shall be treated courteously and not be subjected to disorderly or intrusive conduct. Inmates shall not communicate verbally into or out of cellblocks or other housing areas.

I. Disrespect (Schedule A)

Employees shall not be subject to disrespectful conversation, correspondence, or phone calls. Inmates shall address employees by proper title or by "Mr.", "Ms.", "Miss", or "Mrs." whichever is appropriate.

J. Escape (Schedule B)

An escape or attempt to escape from the grounds of an institution or from the custody of an employee outside a facility, successful or not, or the failure to return from a furlough or pass, or being absent from a facility without leave, is a violation. R.S. 15:571.4 and Department Regulation No. 30-9A may provide for forfeiture of good time for aggravated escape or simple escape. (R.S. 14:110A.(2) provides for

additional conditions under which an inmate in work release status may be charged under this rule.)

K. Favoritism (Schedule B)

No inmate shall bribe, influence, or coerce anyone to violate institutional policies, procedures, rules, or state or federal laws, or attempt to do so. No inmate shall give an employee anything of any value.

L. Fighting (Schedule B)

1. Hostile physical contact or attempted physical contact is not permitted. This includes fist fighting, shoving, wrestling, kicking, and other such behavior.

2. Self-Defense Clarification: Self-Defense is a complete defense and can be established to the board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

M. Fighting, Aggravated (Schedule B)

1. Inmates shall not fight with each other using any object as a weapon (including any liquid or solid substances thrown or otherwise projected on or at another person). When two or more inmates attack another inmate without using weapons, the attackers are in violation of this rule, as are all participants in a group or "Gang" fight. The use of teeth will also be sufficient to constitute a violation of this rule. No inmate shall intentionally inflict serious injury or death upon another inmate. Contact does not necessarily have to be made for this rule to be violated.

2. Self-Defense Clarification: Self-defense is a complete defense and can be established to the board by demonstrating that his actions did not exceed those necessary to protect himself from injury.

N. Gambling (Schedule B)

No inmate shall operate or participate in any game of chance involving bets or wagers or goods or other valuables. Possession of one or more gambling tickets or stubs for football or any other sport is a violation. No inmate shall operate a book making scheme. Possession of gambling sheets with a list of names or codes, point spreads, how much owed, or how much wagered will be considered a violation.

O. Deleted. See Sanctions Section.

P. Intoxication (Schedule B)

No inmate shall be under the influence of any intoxicating substance at an institution or while in physical custody. Returning from a pass or furlough under the influence of an intoxicating substance is a violation.

Q. Malingering (Schedule A)

1. Sick Call: A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has made repeated and frequent complaints at sick call having little or no merit.

2. Declaration of Emergency: A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has sought emergency medical treatment not during scheduled sick call for a minor ailment that was or could have been properly handled at sick call.

R. Malingering, Aggravated (Schedule B)

A qualified medical staff person (as defined by the institution's responsible health authority) determines that an inmate has sought emergency medical treatment not during

scheduled sick call when there was no ailment.

S. Property Destruction (Schedule B)

No inmate shall destroy the property of others or of the state. Flooding an area and the shaking of doors ("racking down") are not permitted. Standing or sitting on face bowls is a violation. Whether or not the inmate intended to destroy the property and/or the degree of negligence involved may be utilized in defense of the charge.

T. Radio/Tape Player/TV Abuse (Schedule A)

Radios/tape players/TV's must be used in accordance with the posted policies of the facility. Radios/tape players/TV's must be played at a reasonable volume so as not to disturb others. Violations of posted policies regarding radios/tape players/TV's may be processed under this rule. In addition to any sanction that may be imposed by the disciplinary officer or the disciplinary board, the ranking employee on duty may confiscate the radio/tape players/TV's for a period of up to 30 days. For repeated violations, the radio/tape player/TV will be confiscated and disposed of in accordance with Department Regulation No. 30-22. The inmate will not be permitted to have a similar item sent to him for one year.

U. Self-Mutilation (Schedule B)

1. No inmate shall deliberately inflict or attempt to inflict injury upon himself, upon a consenting inmate, or consent to have an injury inflicted upon himself. Tattoos, piercing of any parts of the body, and alterations to teeth are specifically included in this rule. Not included are obvious suicide attempts.

2. Self-Mutilation (Special Sanction): Any inmate found guilty of an act of self-mutilation which results in a limited duty status in excess of five days will be subject to lose his/her plasma privilege and/or store privileges for one year's time.

V. Rescinded.

W. Sex Offenses, Aggravated (Schedule B)

Carnal copulation by two or more inmates with each other, or by one or more inmates with an implement or animal(s), is not permitted. Two or more inmates who have obviously been interrupted immediately before or after carnal copulation are in violation. The same applies to one or more inmates with an implement or animal(s). Use of the genital organs of one of the inmates, regardless of sex, is sufficient to constitute the offense. Overt sexual activity in the visiting room is not permitted. No inmate shall invade the privacy of an employee with sexual remarks or threats in conversation, or by correspondence or phone calls. No inmate shall deliberately expose the genital organs and/or masturbate in view of an employee or visitor. No inmate shall sexually assault a person by force or threat of force.

X. Theft (Schedule B)

No inmate shall steal from anyone. *Forgery*, a form of theft, is the unauthorized altering or signing of a document(s) to secure material return and/or special favors or considerations. (The very act of the forgery will constitute proof of the crime. It need not have been successful in its conclusion.) *Fraud*, a form of theft, is the deliberate misrepresentation of fact to secure material return and/or special favors or considerations. Any inmate who knowingly submits obviously false information to any employee within the Department of Public Safety and Corrections is guilty of

this violation. Lying to the secretary or warden on appeal or in any other part of the administrative remedy procedure or in correspondence will also be a violation. Those who file administrative remedy requests that are frivolous or deliberately malicious may be disciplined under this rule. No inmate shall have stolen items under his immediate control. No inmate shall have institutional property under his immediate control unless he has specific permission; this includes institutional foodstuffs in excess of what a reasonable person might be expected to eat at one sitting. (Refer to Rule Number One for the definition of "Area of Immediate Control".)

Y. Rescinded.

Z. Unauthorized Area (Schedule A)

An inmate must be in the area in which he is authorized to be at that particular time and date or he is in an unauthorized area. No inmate shall go into any housing unit other than that to which he is assigned (this includes standing in the doorway) unless he has permission.

AA. Unauthorized Food (Schedule A)

No inmate shall have under his immediate control any food not sold by the inmate canteen or not otherwise permitted. No inmate shall have institutional foodstuffs under his immediate control outside the mess hall without specific permission. No inmate shall take extra portions of rationed food items at the serving counter. This rule, not Rule Number 21 applies to unauthorized possession of institutional foodstuffs not exceeding that which an inmate could be reasonably expected to eat at one sitting. (Refer to Rule Number One for the definition of "Area of Immediate Control".)

BB. Unsanitary Practices (Schedule A)

Inmates must not spit or drop litter or cigarette butts anywhere but into a proper receptacle. Inmates must not smoke in unauthorized areas. Inmates must maintain themselves, their clothing, and their shoes in as presentable a condition as possible under prevailing circumstances. Each inmate is responsible for keeping his bed and bed area reasonably clean, neat, and sanitary. Beds will be made according to the approved posted policy at the facility. Inmates must wear shoes/boots and cannot wear shirts that leave the armpits exposed or shorts into the mess hall, or chew gum in the mess hall.

CC. Work Offenses (Schedule A)

Inmates must perform their assigned tasks with reasonable speed and efficiency. Though inmates have specific job assignments, it may be required that they do work other than what their job assignments require; this work shall also be done cooperatively and with reasonable speed and efficiency. Being present, but not answering at the proper time at work roll call is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

DD. Work Offenses, Aggravated (Schedule B)

An inmate who flatly refuses to work or to go out to work, or who asks to go to administrative segregation rather than work, is in violation of this rule, as is an inmate who disobeys repeated instructions as to how to perform his work assignment. Hiding out from work or leaving the work area without permission is a violation. Falling far short of fulfilling

reasonable work quotas is not permitted. Being absent or late from work roll call without a valid excuse (Such as no duty or callout) is a violation, as is not reporting for extra duty assignment. Being late to work (includes being late to school assignment) is a violation. A school assignment is considered to be a work assignment for the purposes of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§367. Notice

R.S.15:866.2 provides that any property (including money) which you leave within the Department of Public Safety and Corrections for 90 days after your release and to which you make no claim shall be considered abandoned and will be disposed of in accordance with the law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, *Wolff v. McDonnell*, 94 S.Ct. 2963 (1974) and *Ralph v. Dees*, C.A. 71-94, USDC (Md.La.).

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 7:6 (January 1981), repromulgated by the Department of Public Safety and Corrections, Corrections Services, Office of Adult Services, LR 17:605 (June 1991), LR 19: (May 1993).

§369. Lost Property Claims

A. The purpose of this section is to establish a uniform procedure for handling "Lost Property Claims" filed by individuals in the custody of the Louisiana Department of Public Safety and Corrections, Corrections Services. All wardens and superintendents are responsible for implementing and advising inmates and affected employees of its contents.

B. When an inmate suffers a loss of personal property, he may submit a claim to the warden/superintendent. The claim should be submitted on the attached Form A. The claim must include the date the loss occurred, a full statement of the circumstances which resulted in the loss of property, a list of the items which are missing, the value of each lost item, and any proof of ownership or value of the property available to the inmate. All claims for lost personal property must be submitted to the warden/superintendent within 10 days of discovery of the loss.

Under no circumstances will an inmate be compensated for an unsubstantiated loss, or for a loss which results from the inmate's own acts or for any loss resulting from bartering, trading, selling to, or gambling with other inmates.

C. The warden/superintendent, or his designee, will assign an employee to investigate the claim. The investigative officer will investigate the claim fully and will submit his investigation report and recommendation to the warden/superintendent, or his designee.

D. If a loss of an inmate's personal property occurs through the negligence of the institution and/or its employees, the inmate's claim may be processed in accordance with the following procedures:

1. Monetary

a. The warden/superintendent, or his designee, will

recommend a reasonable value for the lost personal property as described on Form A. The maximum liability for certain classes of items is established at \$50 per Department Regulation No. 30-22;

b. Forms B and C (copies attached) will be completed and submitted to the inmate for his signature; and

c. The claim will then be submitted to the office of the secretary for review and processing.

2. Non-Monetary

a. The inmate is entitled only to state issue where state-issued items are available;

b. The warden/superintendent, or his designee, will review the claim and determine whether or not the institution is responsible;

c. Form B will be completed and submitted to the inmate for his signature; and

d. Form C will be completed and submitted to the inmate for his signature when state issue replacement has been offered.

E. If the warden/superintendent, or his designee, determines that the institution and/or its employees are not responsible for the inmate's loss of property, the claim will be denied, and Form B will be submitted to the inmate indicating the reason. If the inmate is not satisfied with the resolution at the unit level, he may indicate by checking the appropriate box on Form B and submitting to the ARP Screening Officer within five days of receipt.

F. It is only necessary that the inmate check the box indicating "I am not satisfied", date, sign, and forward to the ARP Screening Officer. The ARP Screening Officer will provide the inmate with an acknowledgement of receipt and date forwarded to the secretary's office. The institution will provide a copy of the inmate's original Lost Personal Property Claim (Form A) and Lost Personal Property Claim Response (Form B) and other relevant documentation for submission to the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15823.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Adult Services, LR 19: (May 1993).

APPEAL FROM THE DISCIPLINARY BOARD

APPEAL DECISION

APPELLANT: _____ DATE OF REPORT: _____
 ORIGINAL CHARGE: _____ DATE OF HEARING: _____
 CHARGE FOUND GUILTY OF: _____ LOCATION OF HEARING: _____
 BOARD MEMBERS: _____ SENTENCE IMPOSED: _____

 COUNSEL: _____
 SENTENCE SUSPENDED: YES NO
 PLEA: GUILTY NOT GUILTY

DECISION NUMBER: DBA _____

INMATE NAME _____ DOC # _____
 HOUSING _____

WM: WARDEN/SUPERINTENDENT

TE: _____

DATE OF REPORT _____

DATE OF HEARING _____

ORIGINAL CHARGE _____

PLEA: GUILTY _____ NOT GUILTY _____

CHARGE FOUND GUILTY OF: _____

SENTENCE: IMPOSED SUSPENDED

ISSUES

ARGUMENT

RELIEF DESIRED

I am not satisfied with this decision and wish to appeal to the Secretary in accordance with the provisions set forth in the "Disciplinary Rules and Procedures for Adult Inmates." The Secretary will consider appeals from decisions which resulted in the imposed or suspended sentences of one or more of the following penalties: 1) Isolation; 2) Loss of Good Time; 3) Custody change-minimum medium-if it involves transfer; 4) Custody change to maximum custody; 5) Restitution.

TE: _____ INMATE SIGNATURE: _____

Instructions to inmate: Forward to "ARP Screening Officer" within 5 days of your receipt of this decision.

FORM A

STATE OF LOUISIANA
 DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

(Institution)

TO BE COMPLETED BY THE INMATE/STUDENT

LOST PERSONAL PROPERTY CLAIM

1. Claimant: _____ (Name, number, and location)

2. Date of Loss: _____

3. Circumstances which resulted in the loss of personal property:

4. Items lost (include description)	Value:
_____	_____
_____	_____
_____	_____

NOTE: False claims or false representations of lost items' value will subject the claimant to disciplinary action.

5. Attach to this document any proof of ownership or proof of value available to claimant.

6. A claim must be submitted within ten (10) days of the date of the loss. The claim is to be submitted to the Warden/Superintendent of the institution.

SUBMITTED BY: _____ DATE SUBMITTED: _____ (Signature of claimant)

DATE OF APPEAL: _____

SUBMITTED BY: _____

NUMBER: _____ LOCATION: _____

CLAIM # _____

DATE _____

TO: INMATE NAME DOC # HOUSING _____

FROM: _____

Your request for reimbursement/settlement/replacement of your lost personal property has been reviewed with the below recommended actions:

DENIED

- ____ Your records were reviewed and no proof of ownership is indicated.
____ Unallowable item at this institution.
____ Clothing/items improperly marked according to inmate posted policy.
____ Item illegally obtained.
____ Investigation reveals loss resulted from barter, gambling, or sale.
____ Investigation has proved your claim invalid or unsubstantiated.
____ Loss resulted from irresponsibility on the part of the inmate to keep personal items secure in footlocker, cell, etc.
____ Other _____

APPROVED

- ____ The inmate will be offered state issue items as replacement for the items reported missing.
____ Monetary settlement in the amount of \$ _____ will be processed.
____ Other _____

Signature of Investigating Officer: _____

Signature of Inmate DOC # DATE _____

Warden/Superintendent/or Designee _____

I am not satisfied with this decision and wish to appeal to the Office of the Secretary.

AGREEMENT

I, _____ (Inmate's name), _____ (Number), having filed a claim for lost property on _____ do hereby acknowledge receipt of _____

as full settlement, compromise, and discharge of any and all liability which exists or which might exist, and do hereby agree to release and discharge the State of Louisiana (Department of Public Safety and Corrections) and any and all of its agents, representatives, officers, and employees from any and all liability for compensation, damages, and all other amounts, if any, which might be due me by reason of the loss reported on _____ (Date) (whether the liability, if any, be in damages, tort, or otherwise, or whether the liability, if any, be under the laws of the State of Louisiana, or the laws of the United States). I agree to have this claim processed and settled in accordance with the terms set forth in this agreement.

WITNESSES:

Signature of Inmate _____

Date _____

Warden/Superintendent Approval _____

Secretary's Approval _____ (Necessary only for monetary settlement)

Richard L. Stadler Secretary

RULE

Department of Social Services Office of the Secretary

Child Care Assistance Program (LAC 67:I.103)

The Department of Social Services, Office of the Secretary, is amending the following rule in the Child Care and Development Block Grant Program effective June 1, 1993.

Title 67

SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance §103. Child Care Providers

E. Funds in the form of scholarships will be granted to those child care providers who demonstrate an intention to attain appropriate training in Early Childhood Development.

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), LR 19: (May 1993).

Gloria Bryant-Banks Secretary

RULE

Department of Treasury Bond Commission

Expedited Lease Review

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana State Bond Commission has amended the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(C), the State Bond Commission has adopted the following rule regarding reporting requirements.

EXPEDITED REVIEW OF CERTAIN LEASES

SECTION 1.

The provisions of this rule on expedited review of certain leases shall be applicable to all leases that meet the criteria set forth in Section 2 and shall include financed leases as well as conventional leases that do not contain a nonappropriation clause or that do contain an antisubstitution clause. The provisions of this rule are not intended and shall not in any way be interpreted as exempting from Bond Commission approval any form of lease that has traditionally been deemed to constitute debt.

SECTION 2.

In order for a proposal lease agreement to be eligible for the expedited review process, all of the following criteria must be met and that fact must be certified in writing by an authorized

agent of the government entity seeking approval under the expedited review process:

A. The leased equipment must be specially identified in the proposed lease agreement and the lease must be used to acquire movable property necessary to provide essential governmental services such as those related to safety, sanitation, road and highway construction and repair, health services, communication, education and transportation.

B. If the lease agreement transfers ownership of the leased property to the lessee at the end of the lease term or contains an option to purchase the leased property at a nominal price, the lease agreement must have been entered into in compliance with the public bid law.

C. The governmental entity must have excess or sufficient revenues to cover annual debt service on the lease pursuant to the provisions of R.S. 33:2922.

D. The total amount of the lease cannot exceed the greater of \$100,000 or 10 percent of the government entity's annual revenues.

E. There must have been no default on any debt obligation within the previous five years.

SECTION 3.

The governmental entity shall submit the following documents with the proposed lease and the request for approval under this rule.

A. The resolution of the governmental entity authorizing the lease.

B. A copy of the lease agreement.

C. A copy of the governmental entity's current year budget, showing excess revenues pursuant to R.S. 33:2922.

D. A complete summary of the lease on forms approved by the commission.

E. A certification from the governmental entity in the form approved by the commission, attesting to compliance with all of the requirements of this rule.

SECTION 4.

On an as needed basis the staff of the State Bond Commission shall mail to the commission members a notice of all leases submitted to the commission staff that meet the criteria for approval under this rule, and that are scheduled for approval by the executive director, along with a copy of the summary of lease form for each lease. Each lease so submitted shall be approved by the executive director of the State Bond Commission 10 days following the mailing of the notice unless a member of the commission, prior to approval of a lease by the executive director, requests that the lease be placed on the agenda at the next Bond Commission meeting.

If any member of the commission requests that a lease submitted to the staff under the provisions of this rule be placed on the agenda, such lease shall be placed on the agenda for consideration at the next commission meeting in accordance with the commission's rules and regulations.

**CERTIFICATION OF COMPLIANCE WITH
CRITERIA FOR
APPROVAL OF LEASE UNDER
EXPEDITED PROCEDURE**

Name of Lessee _____
Name of Lessor _____

Equipment to be Leased _____
Term of Lease _____
Amount of Lease _____
Interest Rate _____

BEFORE ME, the undersigned authority, personally came and appeared _____ who declared that he is the _____ for the Lessee, and does hereby certify that:

The proposed lease agreement is being entered into for the purpose of acquiring movable property necessary to provide essential governmental services, more specifically the following:

If the lease agreement transfers ownership of the leased property to the Lessee at the end of the lease term or contains an option to purchase the leased property at a nominal price, it has been let in accordance with the public bid laws.

The Lessee has excess or sufficient revenues to cover annual debt service on the lease pursuant to the provisions of R.S. 33:2922.

The total amount of the lease does not exceed the greater of \$100,000 or 10 percent of the Lessee's annual revenues.

The Lessee has not been in default on any debt obligation within the previous five years.

The following documents are attached:

- (1) The Resolution of the Lessee authorizing the lease.
- (2) A copy of the lease agreement.
- (3) A copy of the Lessee's current year budget.

Lessee's Agent or Authorized Officer
Sworn to and subscribed before me, this _____ day
of _____, _____, at _____, Louisiana.

Notary Public

Mary L. Landrieu
State Treasurer and Chairperson

RULE

**Department of Wildlife and Fisheries
Office of Wildlife**

Wild Louisiana Stamp and Print Program (LAC 76:I.323)

(Editor's Note: A portion of this section is being amended to change the minimum royalty to department per print sold from a retail basis to a wholesale basis.)

**Title 76
WILDLIFE AND FISHERIES
Part I. Wildlife and Fisheries Commission and
Agencies Thereunder
Chapter 3. Special Powers and Duties
Subchapter G. Wild Louisiana
§323. Wild Louisiana Stamp and Print Program**

J. Production and Marketing Plan. The department will utilize the original winning design to produce the Wild Louisiana Stamp. Upon completion, the winning design will be returned to the artist for print production. The winning artist will be responsible for reproduction, marketing, and distribution of the prints. Prints shall be accompanied by a Wild Louisiana Stamp purchased from the department by the artist. Prints only in the following editions will be allowed, and it is the option of the artist to determine which of the following he or she will produce. The Conservation Edition shall be produced. Additionally, a minimum of one of the other editions shall be produced:

1. Regular Edition—numbered, signed by artist. Minimum royalty to department per print sold—15 percent wholesale price.

2. Medallion Edition—numbered, signed by artist, with gold-plated medallion. Minimum royalty to department per print sold—15 percent wholesale price.

3. Executive Edition—numbered, signed by artist, artist remarque, with gold-plated medallion. Minimum royalty to department per print sold—10 percent wholesale price.

4. Conservation Edition/Posters—unsigned, unnumbered, labeled as "Conservation Edition." Minimum royalty to department per print sold—15 percent wholesale price.

AUTHORITY NOTE: Promulgated in accordance with Act 193 of the 1992 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Wildlife, LR 19:360 (March 1993), repromulgated LR 19:513 (April 1993), repromulgated LR 19: (May 1993).

Joe L. Herring
Secretary

NOTICES OF INTENT

NOTICE OF INTENT

Department of Agriculture and Forestry Structural Pest Control Commission

Termiticide Foam Applications and Ship Fumigation Licensure (LAC 7:XXV.Chapter 141)

In accordance with R.S. 49:950 et seq., the Department of Agriculture and Forestry gives notice that rulemaking procedures have been initiated to amend LAC Title 7, Part XXV, §§14107, 14110 and to adopt §14136. These rules will establish qualifications for applicants seeking a license to fumigate ships for structural pest control and to permit

termiticide foam applications. These rules comply with and are enabled by R.S. 3:3366, 3:3368 and 3:3201.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 141. Structural Pest Control Commission

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

* * *

C. each applicant for a ship fumigation license must possess one of the following qualifications in order to take the examination:

1. a degree from an accredited four-year college or university with a major in entomology; or

2. a degree from an accredited four-year college or university at least 12 semester hours or the equivalent in quarter hours of course work in entomology and at least one year of experience as a registered technician under the supervision of a licensee in ship fumigation, or

3. four years of experience as a registered technician under the supervision of a licensee in ship fumigation, or

4. experience as a certified ship fumigation technician having completed 200 jobs in ship fumigation working under the supervision of a licensed ship fumigator, or

5. four years of experience as a technician under the supervision of a structural pest control operator in another state in ship fumigation. Experience with an out-of-state structural pest control operator shall be substantiated by evidence acceptable to the commission, or

6. 200 jobs in ship fumigation that the applicant has worked as a registered technician in ship fumigation working under the supervision of a licensed ship fumigator, during a two-year period.

D. Each applicant for licensure must also demonstrate the following competencies:

1. knowledge of the practical and scientific facts underlying the practice of structural pest control, control of wood-destroying insects and/or fumigation; and

2. knowledge and ability to recognize and control hazardous conditions which might affect human life or health.

E. Each applicant must successfully complete the appropriate examination for certification prior to issuance of the structural pest control license.

F. In addition to the qualifications required by LAC 7:14107.B-C, each applicant for licensure must:

1. submit a complete application for examination as required by LAC 7:14109 hereof;

2. be approved by the commission to take the examination for licensure;

3. have successfully completed a written examination for licensure no more than two years prior to the date of issuance of the license;

4. secure a permit for operation of the business location where he will be domiciled, as required by LAC 7:14105 above, provided that an applicant for license who is connected

with a business location for which the commission has already issued a permit for operation need only to advise the commission of the business name and location of the permitted establishment where he will be domiciled;

5. provide a certificate of insurance on a document approved by the Louisiana Department of Agriculture and Forestry of general liability as follows:

- a. not less than \$250,000, public liability coverage, per accident;
- b. not less than \$100,000 coverage for property damage;
- c. or combined single limits of \$350,000;
- d. liability insurance must provide coverage under Insurance Code 73421 (fumigation including completed operations) and on Insurance Code 73420 (exterminating including pest control and completed operations excluding fumigation and use of gas of any kind).
- e. provision for at least 10 days prior written notice to the commission before cancellation.

6. Provide evidence of a surety or fidelity bond covering the business with which the applicant is connected, issued by a bonding, surety or insurance company authorized to do business in Louisiana, in the amount of \$2,000, of tenor and solvency satisfactory to a majority of the commission. An applicant who is not connected with a business covered by the required surety or fidelity bond must secure the appropriate coverage prior to issuance of the license.

G. Out-of-State applicants for licensure must meet the educational requirements shown in LAC 7:14107.B.1 above or produce evidence satisfactory to the commission of four years of experience under the supervision of a recognized and reputable pest control operator. Experience in pest control work in another state will be verified with the appropriate regulatory agency of the other state before out-of-state applicant will be allowed to take the examination for licensure in Louisiana.

H. The commission shall consider each application for examination for licensure in open session. The commission may verify the contents of any application prior to taking final action to approve/disapprove the applicant to take the examination. The commission may disapprove an applicant, or defer action on the application to take the examination, in any instance when the contents of the application cannot be verified. Action to grant/deny approval for the applicant to take the examination shall be taken only upon the affirmative vote of three members of the commission. No license shall be issued until the commission has approved the application.

I. All applicants who are approved by the commission will, upon successfully completing the examination for licensure as set forth in LAC 7:14109 hereof, receive a single license to engage in structural pest control work, which license shall specify on the face thereof the specific phase or phases of structural pest control work for which the license is issued, as follows:

1. General Pest Control
2. Commercial Vertebrate Control
3. Termite Control
4. Structural Fumigation

5. Ship Fumigation

6. Commodity Fumigation

J. A license to engage in structural pest control work is permanent unless suspended or revoked by the commission as provided in LAC 7:14121.

K. A licensee may perform or supervise structural pest control work only in the phase or phases of the license for which he is licensed by the commission.

L. Each license is personal to the holder and may not be transferred to another for any purpose or for any period of time and may not be utilized in any way by any person other than the licensee whose name appears on the face of the license.

M. The license must be permanently displayed on the licensee's place of business at all times.

N. The commission may deny a license to any person proven to have committed any of the violations set forth in LAC 7:14121 hereof.

O. A licensee approved in one phase of pest control work may be licensed in additional phases by successfully completing the examination for the additional phase. However, the license for additional phase or phases of structural pest control work shall not be issued until the commission approves the licensee to take the examination for the additional phase or phases.

P. Any licensee desiring to utilize a telephone answering service other than at locations holding a place of business permit shall submit a written request and receive permission from the Louisiana Department of Agriculture and Forestry at least 30 days prior to establishing such a telephone answering service.

Q. A licensee can only have one license with all phases for which he possesses issued at one place of business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3308 and R.S. 3:3306 (redesignated R.S. 3:3366 and 3:3368).

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:326 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:

§14110. Requirements and Responsibilities of the Certified Fumigation Technician

A. 1.-2. ...

3. Repealed

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3369 and R.S. 3:3366.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 17:251 (March 1991), amended LR 19:

§14136. Termiticide Foam Applications

Termiticide foam applications may be used as a supplemental treatment to approved liquid applications on post-construction treatments for the control, prevention or eradication of termites and other wood destroying insects.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 19:

This rule complies with and is enabled by the Louisiana Pesticide Law, R.S. 3:3201, et seq.

A public hearing on these proposed regulations will be held on June 24, 1993 in Baton Rouge, LA at the Department of Agriculture and Forestry Building at 5825 Florida Boulevard at 9:30 a.m. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at that hearing. Interested persons may submit data, views or arguments in writing to: David Fields, Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, 5825 Florida Boulevard, Baton Rouge LA 70806.

Bob Odom
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TERMITICIDE FOAM APPLICATIONS AND
SHIP FUMIGATION LICENSURE**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs to state or local governmental units are anticipated to result from the proposed regulations.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated to result from the proposed regulations.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Persons who perform termiticide applications will be affected by the regulation allowing foam applications. Persons wishing to apply for ship fumigation licenses will be affected by the new qualifications. Those persons seeking to substitute experience over other qualifications must now have worked on at least 200 ship fumigation jobs. However, this will be offset to a large extent by the inclusion of college degrees in entomology or coursework in entomology in the list of qualifications.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Persons who use experience to qualify for a ship fumigation license will now have to compete with persons who have degrees or coursework in entomology.

Richard Allen
Assistant Commissioner

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Culture, Recreation and Tourism
Office of Cultural Development
Division of the Arts**

Mission and Grant Applicant Information
(LAC 25:I.Chapter 3)

Under the authority of R.S. 25:894 and 25:895, and in

accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is given that rulemaking procedures have been initiated to amend LR 18:1115 to reduce the time and paperwork required to amend the grant application procedures in the future. This will be done by no longer forming the guidelines into official administrative rules. It is more efficient to promulgate just the purpose of the Arts program, its philosophy of assistance, and the yearly timetable. The complete set of guidelines will be available upon request at the Department of Culture, Recreation, and Tourism; Office of Cultural Development; Division of the Arts. Address any inquiries to Office of the Director; Division of the Arts; Office of Cultural Development; Department of Culture, Recreation and Tourism; Box 44247 Baton Rouge, LA 70804.

Title 25

CULTURAL RESOURCES

Part I. Office of Cultural Development

Chapter 3. Division of the Arts

§301. Introduction: Arts Programs in Louisiana

A. - E. ...

1. The council and division have established advisory panels to assist in administering arts grant programs. Panelists are experienced artists, arts administrators, and other professionals knowledgeable in the arts, and are recommended by individuals, organizations, and division staff. The council approves panelists selected by the division to represent all geographic areas and differing aesthetic and cultural perspectives. Appointments are for one year and may be extended to no more than three consecutive years. Contact the division for instructions on nominating panelists.

E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:894 and 25:896.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of the Arts, LR 7:625 (December 1981), amended LR 8:510 (October 1982), LR 9:684 (October 1983), LR 11:341 (April 1985), LR 11:1137 (December 1985), LR 13:740 (December 1987), LR 14: 845 (December 1988), LR 15:720 (September 1989), LR 17:1202 (December 1991), LR 18:1115 (October 1992), LR 19:

§303. Eligibility and Administration

Repealed.

§305. Guidelines for Applications

A. 1. All applications must be postmarked by March 1. The division will not assume responsibility for lost or misdirected mail. Late applications will be ineligible.

2. Applications will be accepted only for arts activities scheduled to begin no earlier than July 1 and end no later than June 30 of the fiscal year for which the application is submitted.

3. Requests for grants must be submitted on current grant application forms, which may not be altered in any way.

4. Application forms are available from your local arts agency or the Division of the Arts from December 1 to March 1.

5. The guidelines on how grants are to be applied for and awarded will be reviewed yearly. The public is encouraged to provide input during the month of June to be considered for

the next year's guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 25:894 and 25:896.

HISTORICAL NOTE: Promulgated by the Department of Culture, Recreation and Tourism, Office of Cultural Development, Division of the Arts, LR 7:625 (December 1981), amended LR 8:510 (October 1982), LR 9:684 (October 1983), LR 11:341 (April 1985), LR 11:1137 (December 1985), LR 13:740 (December 1987), LR 14: 845 (December 1988), LR 15:720 (September 1989), LR 17:1202 (December 1991), LR 18:1115 (October 1992), LR 19:

§307. Individual Artist Programs

Repealed.

§309. Documentation and Samples of Work

Repealed.

§311. Compliance with Administrative Regulations

Repealed.

§313. Glossary

Repealed.

A public hearing will be held on July 10, 1993 at 10 a.m. in the Committee Room, Third Floor, Capitol Annex, 1051 North Third Street. Interested persons are invited to attend and submit oral comments on the proposed amendment.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than June 30, 1993 to Michelle Munson, Office of Cultural Development, Box 44247, Capitol Station Baton Rouge, LA 70804.

Gerri Hobdy
Assistant Secretary

of people employed in DOA will not change because of the proposed rule change.

Gerri Hobdy
Assistant Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Board of Examiners of Certified Shorthand Reporters**

Grading of Examinations (LAC 46:XXI.309)

Notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters is hereby amending Title 46, Part XXI, Chapter 3 of the Louisiana Administrative Code relative to the grading of the exam as follows.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXI. Certified Shorthand Reporters

Chapter 3. Examinations

§309. Grading of Examination

A. Each candidate's examination will be graded on the basis of ability to accurately transcribe notes, the time occupied in the transcription, knowledge of court reporting procedure and its related terminology, accuracy of spelling and punctuation, and the general style of the transcript.

B. Seventy-five percent accuracy is required on the written knowledge test with a maximum of 25 errors.

C. The maximum number of errors allowed to pass the dictated and transcribed portions of the skills test is 57 errors on the Q & A portion; 50 errors on the jury charge portion; and 45 errors on the literary portion. For purposes of grading, the Q & A portion of the skills test may be graded first. When an applicant has more than 77 errors on the Q & A portion, grading may cease, and the jury charge and literary portions will not be graded. The jury charge portion of the skills test will be graded if the applicant has 77 errors or less on the Q & A portion. When an applicant has more than 70 errors on the jury charge portion, grading may cease and the literary portion will not be graded. The literary portion of the skills test will be graded if the applicant has 77 errors or less on the Q & A portion and 70 errors or less on the jury charge portion. When an applicant has more than 65 errors on the literary portion, grading may cease.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters in LR 9:678 (October 1983), amended LR 14:530 (August 1988), LR 16:393 (May 1990), LR 17:578 (June 1991), LR 19:

Interested persons may submit written comments on the proposed regulations until 4:30 p.m., July 20, 1993, at the following address: Gay M. Pilié, Office Administrator, Louisiana Board of Examiners of Certified Shorthand

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MISSION AND GRANT APPLICANT
INFORMATION**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will save the state \$2880 in personal services and \$5850 in printing costs for a total savings of \$8490. This is due to a reduction of paperwork and the time to prepare the paperwork. There will be no effect on local governmental units.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no effect on revenue collections for either state or local governmental units as the rule is distributed free of charge to anyone who requests a copy. After the proposed change, the guidelines will still be available free of charge.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There will be no costs or economic benefits to any persons. The guidelines will continue to be available at no cost to everyone.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There will be no effect on competition and employment. The guidelines are free to any one who requests them. The number

Reporters, 325 Loyola Avenue, Suite 306, New Orleans, LA 70112.

Judge Leon A. Cannizzaro, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: GRADING OF EXAMINATIONS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

As a result of the proposed rule, there will be a cost savings to the board of approximately \$1,000 per year. Currently, the board contracts with a third-party consultant for grading of examinations. The proposed rule eliminates the need to continue grading portions of an exam where the errors already tabulated would render it impossible for an applicant to achieve a passing grade. Thus, less time of the consultant will be needed, resulting in a savings to the board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on revenue collections as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There are no anticipated costs or economic benefits to affected persons as a consequence of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Judge Leon A. Cannizzaro, Jr.
Chair

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Economic Development Corporation**

Micro Loan Program (LAC 19:XIII.Chapter 1)

Under the authority of R.S. 51:2312(A)(7), (B)(1) and (B)(3), notice is hereby given that the Department of Economic Development, Board of the Economic Development Corporation proposes new rules concerning a micro loan guaranty program for small businesses.

Title 19

CORPORATIONS AND BUSINESS

Part XIII. Louisiana Economic Development Corporation

Chapter 1. Micro Loan Program

§101. Purpose

A. The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

B. The corporation will consider sound loans so long as resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§103. Definitions

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Micro Loans—those loans ranging in size from \$5,000 to \$25,000.

Minority or Woman-Owned Business Enterprise must be owned or controlled by a socially or economically disadvantaged person which is defined by the SBA as a person(s), regardless of sex or marital status, who are members of groups whose disadvantage may arise from cultural, racial, chronic economic circumstances or background as stated in R.S. 51:2347 et seq., and must be certified as a minority business enterprise or women's business enterprise as defined in R.S. 51:2347 B:1-6.

Small Business Concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§105. Application Process

A. Applicant is required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of additional credit support provided by an LEDC guaranty or a participation and complete the application process. An applicant may also apply to LEDC directly for loan consideration, provided it is based upon documented eligibility as established as follows. Only after rejection by at least two lending institutions for participation on the basis of either a loan participation or a loan guaranty shall an applicant be eligible to be considered for a direct loan by LEDC. Such applications may be forwarded directly to LEDC.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form along with the information identified in Appendix A as may be appropriate must be submitted with a \$100 application fee. Applications will be processed with decisions confirmed promptly.

2. Minority and women-owned businesses applying for

assistance under that provision will have to submit certification from the Minority and Women's Business Enterprise Office of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the disabled persons provision shall submit adequate information to support the disabled status.

4. LEDC staff will review the applications for completeness and submit only complete packages for analysis. Any applications not receiving approval in the initial analysis process shall be individually reviewed and exceptions to underwriting criteria noted. The LEDC staff will report to the screening committee monthly those applications approved, and those not recommended for approval with reasons.

5. Loans guaranteed or participated in by LEDC must qualify under LEDC pre-approved underwriting criteria using standardized LEDC documentation. The originating bank is responsible for all loan closing documentation. Closing will occur only after a site visit by an LEDC staff member or designated representative.

6. Direct loans by LEDC must qualify under LEDC pre-approved underwriting criteria, or be approved by the board of directors as an exception to such criteria. Such loans will be closed by LEDC or its designated agents using standardized LEDC documentation.

7. Only those applicants and/or their designated representatives asked to be present by the LEDC staff need to be present for the screening committee.

8. The board of directors will review the results of all applications processed and screened. Loans recommended for approval by the LEDC staff as exceptions to standard underwriting criteria will be presented to the screening committee of the board for approval. Loans approved under standard underwriting procedures requiring direct LEDC funding, LEDC guarantees or participation shall be approved jointly by the LEDC executive director and deputy director. In the absence of one of those persons, the president of LEDC or the secretary/treasurer could additionally approve.

9. The applicant will be notified promptly from date accepted for processing by mail of the outcome of the application.

10. A LEDC commitment letter, standard guaranty or participation agreement will be mailed to the bank promptly after approval by the LEDC staff applying standardized evaluation processes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§107. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana and the business is domiciled in Louisiana with preference given to certified minority businesses, women-owned businesses, or businesses owned by disabled persons.

C. Funding request for all but the following may be considered:

1. restaurants, except for regional or national franchises;
2. bars;
3. any project established for the principal purpose of dispensing alcoholic beverages;
4. any establishment which has gaming or gambling as its principal business;
5. any establishment which has consumer or commercial financing as its business;
6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation;
7. funding for the principal purpose of refinancing existing debt in excess of 10 percent of the total requested loan amount.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§109. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans:

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed four percentage points above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

2. On all participation loans the interest rate to LEDC shall be determined by averaging the rates charged by the Small Business Administration for the current quarter and the three immediately preceding quarters.

3. On all direct loans by LEDC the interest rate to LEDC shall be three percentage points above the New York prime rate as published in the *Wall Street Journal* for either variable rate loans.

C. Collateral

1. Collateral to loan ratio will be no less than 1:1, except for direct loans where the ratio will be 1:1.2.

2. Collateral position shall be negotiated but will be no less than a sole second position.

3. Collateral value determination:

- a. the appraiser must be certified by recognized organization in area of collateral;
- b. the appraisal cannot be over 90 days old;
- c. the percentage of value considered shall be consistent with the underwriting criteria established by the LEDC Board from time to time.

4. Acceptable collateral may include, but not be limited to, the following:

- a. fixed assets - real estate, buildings, fixtures;
- b. equipment, machinery, inventory;
- c. personal guaranties are open for negotiation, if used, there must be signed and dated personal financial statements;
- d. accounts receivable with supporting aging schedule, except for direct loans where accounts receivable are ineligible.

5. Unacceptable collateral may include, but not be limited to, the following:

- a. stock in applicant company and/or related companies;
- b. personal items.

D. Equity

1. Will be no less than 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion.

2. Equity is defined to be:

- a. cash;
- b. paid in capital;
- c. paid in surplus and retained earnings;
- d. partnership capital and retained earnings.

3. No research, development expense nor intangibles or contributed assets other than cash of any kind will be considered equity.

E. Amount

1. For small businesses the corporation's guarantee shall be no greater than 80 percent of a loan up to \$25,000.

2. For certified minority-owned, women-owned, or owned by disabled persons the corporations's guarantee shall be no greater than 90 percent of a loan up to \$25,000.

3. For small businesses the corporation's participation shall be no greater than 50 percent, but in no case shall it exceed \$12,500.

4. For certified minority-owned, women-owned, or owned by disabled persons the corporations's participation shall be no greater than 50 percent, but in no case shall it exceed \$12,500.

F. Terms

1. Terms may be negotiated with the bank but in no case shall the terms exceed five years.

G. Fees

1. LEDC will charge a minimum guaranty fee of three percent of the guaranty amount.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51

percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

- a. exceeds 10 percent of total loan; and/or
- b. pays off a creditor or creditors who are inadequately secured; and/or
- c. provides funds to payoff debt to principals of the business; and/or
- d. provides funds to payoff family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51: 2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§111. General Agreement Provisions

A. Guaranty Agreement

1. Originating bank or LEDC agent responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC Board.

3. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

4. There will be a reduction of the guarantee:

- a. in proportion to the principal reduction of the amortized portion of the loan;
- b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guarantee amount will be made proportional to the remaining guarantee life.

5. The guarantee will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guarantee agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guarantee agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk. A blend with the LEDC rate to yield a lower overall rate to project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

C. Borrower Agreement

1. At the discretion of LEDC the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312(A)(7), (B)(1) and (B)(3).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§113. Confidentiality

Confidential information in the files of the corporation and its accounts acquired in the course of duty is to be used solely for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

§115. Conflict of Interest

No member of the corporation, employee thereof, or employee of the Department of Economic Development or members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2347.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 19:

APPENDIX A

The application for financial assistance should consist of a completed LEDC application form and a comprehensive business plan/loan proposal which contains but is not limited to the following guidelines:

- A. An LEDC Micro loan application form.
- B. Executive summary:
 1. business description:
 - a. name;
 - b. location and business facility description;
 - c. product or service;
 - d. market and competition;
 - e. management expertise;
 2. Business goals including number of employee jobs to be saved or created as a result of this loan.
 3. Uses of loan proceeds.
 4. Projected financial results demonstrating payback capability.
- C. Management Plan:
 1. board of directors composition;
 2. officers: organization chart and responsibilities;
 3. list of stockholders with more than 15 percent ownership;
 4. resumes of key personnel;
 5. staffing plan/number of employees;
 6. facilities plan/planned capital improvements;
 7. operating plan/schedule of upcoming work for next one to two years;
 8. list of work backlog, if any.

D. The originating bank may be asked by LEDC to share additional information on which they based a favorable decision.

E. For sole proprietorships:

1. last three years personal federal and state income tax returns complete with all schedules (as available, based upon age of business);
2. interim business income statement for the current year;
3. complete personal financial statement.

F. For Partnerships or Corporations:

1. last three years business financial statements including balance sheets and income statements;
 2. interim business financial statements;
 3. last three years business income tax returns complete with all schedules;
 4. Most recent personal income tax returns including all schedules with K1's for each owner, general partner, and/or guarantor.
- G. Complete transmittal form by LEDC Business Advisor.
- H. General borrower financial requirements:
1. business annual sales less than or equal to \$7,000,000;
 2. maximum total loans of \$750,000 to a borrower from all sources;
 3. personal guarantees of business principals required;
 4. operating at break-even or better;
 5. business cash flow is greater than or equal to 1.25 times business debt service requirement;
 6. combined business and personal debt not to exceed 50 percent of combined business and personal income for proprietorships;
 7. business debt to worth ratio of 3.0 or less;
 8. working capital lines of credit at other lenders to be capped at present levels;
 9. loan to collateral value ratios to be maintained within guidelines

of:

- a. 80 percent for personal real estate;
- b. 80 percent for commercial real estate;
- c. 80 percent for equipment;
- d. 75 percent for accounts receivable;
- e. 50 percent for inventory;
- f. not in default, bankruptcy, or delinquent in collection on any

debt.

I. Credit scoring factors considered including personal and business credit reports and trade checks.

This proposed rule is scheduled to become effective August 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. Interested persons may comment on the proposed rules until June 30, 1993, to Tracy Mandart, Executive Director, Economic Development Corporation, Box 94185, Baton Rouge, LA 70804-9185.

Tracy Mandart
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: MICRO LOAN PROGRAM

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no known costs to the state or local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be approximately \$35,000 of annual revenue collections as a result of a \$100 application fee and three percent guaranty fee.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The program will benefit small business owners by making available capital for expansions that would not ordinarily be

available. Commercial banks have moved out of the \$5000 - \$50,000 loan range. With this program in place, capital in this loan range will be made available. The small business owners will in turn be able to create and preserve jobs. A guarantee fee of three percent will be collected by LEDC.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This program is not in competition with the private sector lender because it utilizes them as the vehicle to originate the loans and will not negatively affect private sector employment. Because economic development is the purpose of the program net new jobs will be created through the development of new and expanded businesses.

Tracy Mandart
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Economic Development Economic Development Corporation

Small Business Loan Program (LAC 19:VII.Chapter 1)

Under the authority of R.S. 51:2341-51:2344 as amended in Acts 1992, No. 1092, notice is hereby given that the Department of Economic Development, Board of the Economic Development Corporation proposes new rules concerning a loan guaranty program for small business.

The following rules repeal and replace LAC 19:VII.Subpart 3, Small Business Equity Program, Chapter 7, Chapter 9, and Chapter 11 and LAC 19:VII, Subpart 1, Minority and Women Business Development Program, Chapters 1-11.

Acts 1992, No. 1092, Section 1, in Subsection A, eliminated references to the Minority and Women's Business Development Program, the Development Action Fund Program, and the Economic Development Grants for Infrastructure Improvements Program, and substituted the state's Small Business Loan Program or the state's Small Business Equity Program; in subsection B, added paragraphs B(13) and B(14); in subsection D, substituted "Department of Economic Development" for "Department of Commerce"; and added subsection G (now subsection F).

Title 19

CORPORATIONS AND BUSINESS

Part VII. Louisiana Economic Development Corporation

Subpart 1. Louisiana Small Business Loan Program

Chapter 1. Loan Policies

§101. Purpose

The Louisiana Economic Development Corporation (LEDC) wishes to stimulate the flow of private capital, long-term loans, and other financial assistance for the sound financing of the development, expansion, and retention of small business concerns in Louisiana, as a means of providing high levels of employment, income growth, and expanded economic opportunities, especially to disadvantaged persons and within distressed and rural areas.

The corporation will consider sound loans so long as

resources permit. The board of the corporation recognizes that guaranteeing, participating, or lending money carries certain risks and is willing to undertake reasonable exposure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§103. Definitions

Disabled Person's Business Enterprise—a small business concern which is at least 51 percent owned and controlled by a disabled person as defined by the federal Americans With Disabilities Act of 1990.

Minority or Woman-Owned Business Enterprise—must be owned or controlled by a socially or economically disadvantaged person which is defined by the SBA as a person(s), regardless of sex or marital status, who is (are) member(s) of groups whose disadvantage may arise from cultural, racial, chronic economic circumstances or background as stated in R.S. 51:2347 et seq., and must be certified as a minority business enterprise or women's business enterprise as defined in R.S. 51:2347 B:1-6.

Small Business Concerns—as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§105. Application Process

A. An applicant(s) applying for either a loan guaranty or a loan participation will be required to first contact a financial lending institution that is willing to entertain such a loan with the prospect of a guaranty or a participation.

B. Information submitted to LEDC with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential to the extent allowed under the Public Records Law, R.S. 44:1 et seq. Confidential information in the files of LEDC and its accounts acquired in the course of duty will be used solely by and for LEDC.

C. Submission and Review Policy

1. A completed Louisiana Economic Development Corporation application form along with a complete business plan which shall contain but not be limited to the information in Appendix A, must be submitted no later than four weeks prior to the next scheduled screening committee meeting for consideration at the next scheduled board meeting of the corporation following the screening committee meeting.

2. Minority and women-owned businesses applying for assistance under that provision will have to submit certification from the Minority and Women's Business Enterprise Office of the Department of Economic Development along with the request for financial assistance.

3. Businesses applying for consideration under the

disabled persons provision shall submit adequate information to support the disabled status.

4. The bank will submit to LEDC the complete analysis, proposed structure, and commitment letter at least two weeks prior to the next scheduled screening committee meeting for consideration at the next scheduled board meeting following the screening committee meeting. The LEDC staff may do analysis independent of bank analysis.

5. The bank will submit to LEDC the same pertinent data that it did to the bank's loan committee, whatever pertinent data the bank can legally supply.

6. LEDC staff will review the application and analysis then make recommendations. The staff will work with the bank on terms of loan and LEDC loan stipulations.

7. The screening committee will review only the completed applications submitted by staff and will make recommendations to board.

8. The applicant(s) or their designated representative, and the loan officer or a representative of the bank are encouraged to attend the screening meeting.

9. The board of directors will review all recommendations and will approve or reject the proposal.

10. The applicant will be notified within five working days by mail of the outcome of the application.

11. A LEDC commitment letter will be mailed to the bank within five working days of approval by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§107. Eligibility

A. Small business concerns as defined by SBA for purposes of size eligibility as set forth by 13 CFR 121.

B. Small businesses whose owner(s) or principal stockholder(s) shall be a resident of Louisiana and the business is domiciled in Louisiana with preference given to certified minority businesses, women-owned businesses, or businesses owned by disabled persons.

C. Funding request for all but the following may be considered:

1. restaurants, except for regional or national franchises;
2. bars;
3. any project established for the principal purpose of dispensing alcoholic beverages;
4. any establishment which has gaming or gambling as its principal business;
5. any establishment which has consumer or commercial financing as its business;
6. funding for the acquisition, renovation, or alteration of a building or property for the principal purpose of real estate speculation.

7. funding for the principal purpose of refinancing existing debt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June

1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§109. General Loan Provisions

A. The Louisiana Economic Development Corporation will be guided by the following general principles in making loans.

1. The corporation shall not knowingly approve any loan guarantee, loan participation or loan if the applicant has presently pending or outstanding any claim or liability relating to failure or inability to pay promissory notes or other evidence of indebtedness including state or federal taxes, or bankruptcy proceeding; nor shall the corporation approve any loan or guarantee if the applicant has presently pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit.

2. The terms or conditions imposed and made part of any loan or loan guaranty authorized by vote of the corporation board shall not be amended or altered by any member of the board or employee of the Department of Economic Development except by subsequent vote of approval by the board at the next meeting of the board in open session with full explanation for such action.

3. The corporation shall not subordinate its position.

B. Interest Rates

1. On all loan guarantees the interest rate is to be negotiated between the borrower and the bank but may not exceed 2½ percent above New York prime as published in the *Wall Street Journal* at either a fixed or variable rate.

2. On all participation loans the rate shall be determined by averaging the rates charged by the Small Business Administration for the current quarter and the three immediately preceding quarters.

C. Collateral

1. Collateral to loan ratio will be no less than one to one.
2. Collateral position shall be negotiated but will be no less than a sole second position.
3. Collateral value determination:
 - a. The appraiser must be certified by recognized organization in area of collateral;
 - b. The appraisal cannot be over 90 days old.
4. Acceptable collateral may include, but not be limited to, the following:
 - a. fixed assets - real estate, buildings, fixtures;
 - b. equipment, machinery, inventory;
 - c. personal guaranties are open for negotiation, if used, there must be signed and dated personal financial statements;
 - d. accounts receivable with supporting aging schedule. Not to exceed 90 percent of receivable value (used with guaranty only).

5. Unacceptable collateral may include but not be limited to the following:

- a. stock in applicant company and or related companies;
- b. personal items.

D. Equity

1. Will be no less than 20 percent of the loan amount for a start-up operation or acquisition and no less than 15 percent for an expansion.

2. Equity is defined to be:

- a. cash;
- b. paid in capital;
- c. paid in surplus and retained earnings;
- d. partnership capital and retained earnings.

3. No research, development expense nor intangibles of any kind will be considered equity.

E. Amount

1. For small businesses the corporation's guaranty shall be:

a. no greater than 75 percent of a loan up to \$650,000; or

b. no greater than 70 percent of a loan up to \$1,100,000; or

c. no greater than 65 percent of a loan up to \$1,500,000;

d. if the loan request exceeds \$1,500,000 the guaranty shall not exceed \$1,000,000.

2. For certified minority-owned, women-owned, or owned by disabled persons the corporations's guaranty shall be:

a. no greater than 90 percent of a loan up to \$560,000; or

b. no greater than 85 percent of a loan up to \$875,000; or

c. no greater than 75 percent of a loan up to \$1,300,000;

d. if the loan request exceeds \$1,300,000 the guaranty shall not exceed \$1,000,000.

3. For small businesses the corporation's participation shall be no greater than 40 percent, but in no case shall it exceed \$1,000,000.

4. For certified minority-owned, women-owned, or owned by disabled persons the corporations's participation shall be no greater than 50 percent, but in no case shall it exceed \$1,000,000.

F. Terms

1. Terms may be negotiated with the bank but in no case shall the terms exceed 20 years.

G. Fees

1. LEDC will charge a minimum guaranty fee of .5 percent of the guaranty amount up to a maximum amount of 2 percent of the guaranty amount.

H. Use of Funds

1. Purchase of fixed assets, including buildings that will be occupied by the applicant to the extent of at least 51 percent.

2. Purchase of equipment, machinery, or inventory.

3. Line of credit for accounts receivable or inventory.

4. Debt restructure may be considered by LEDC but will not be considered when the debt:

a. exceeds 25 percent of total loan; and/or

b. pays off a creditor or creditors who are inadequately secured; and/or

c. provides funds to pay off debt to principals of the business; and/or

d. provides funds to pay off family members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of

Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§111. General Agreement Provisions

A. Guaranty Agreement

1. Bank responsible for proper administration and monitoring of loan and proper liquidation of collateral in case of default.

2. The loan shall not be sold, assigned, participated out, or otherwise transferred without prior written consent of the LEDC board.

3. If liquidation through foreclosure occurs, the bank sells collateral and handles legal proceedings.

4. There will be a reduction of the guaranty:

a. in proportion to the principal reduction of the amortized portion of the loan;

b. if no principal reduction has occurred in any annual period of the loan, a reduction in the guaranty amount will be made proportional to the remaining guaranty life.

5. The guaranty will cover the unpaid principal amount owed only.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined in the guaranty agreement. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation as stated in the guaranty agreement.

B. Participation Agreement

1. The bank is responsible for administration and monitoring of the loan.

2. The lead bank will hold no less participation in the loan than that equal to LEDC's but not to exceed its legal lending limit.

3. The lead bank may sell other participation with LEDC's consent.

4. Should liquidation through foreclosure occur, the bank will sell the collateral and handle the legal proceedings.

5. The bank is able to set its rate according to risk. A blend with the LEDC rate to yield a lower overall rate to project.

6. Delinquency will be defined according to the bank's normal lending policy and all remedies will be outlined. Notification of delinquency will be made to the corporation in writing and verbally in a time satisfactory to the bank and the corporation.

C. Borrower Agreement

1. At the discretion of LEDC the borrower will agree to strengthen management skills by participation in a form of continuing education acceptable to LEDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§113. Confidentiality

Confidential information in the files of the corporation and its accounts acquired in the course of duty is to be used solely

for the corporation. The corporation is not obliged to give credit rating or confidential information regarding applicant. Also see Attorney General Opinion #82-860.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341-2344.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

§115. Conflict of Interest

No member of the corporation, employee thereof, or employee of the Department of Economic Development or members of their immediate families shall either directly or indirectly be a party to or be in any manner interested in any contract or agreement with the corporation for any matter, cause, or thing whatsoever by reason whereof any liability or indebtedness shall in any way be created against such corporation. If any contract or agreement shall be made in violation of the provisions of this Section the same shall be null and void and no action shall be maintained thereon against the corporation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 - 51:2344 as amended in Acts 1992, No. 1092.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Economic Development Corporation, LR 15:445 (June 1989), amended LR 15:453 (June 1989), LR 15:456 (June 1989), LR 15:460 (June 1989), amended by the Department of Economic Development, Economic Development Corporation, LR 19:

Chapters 3 - 11. Repealed in entirety.

APPENDIX A

The application for financial assistance should consist of a completed LEDC Application Form and a comprehensive business plan/loan proposal which contains but is not limited to the following guidelines.

- A. A cover letter which contains:
 1. dollar amount requested;
 2. terms and timing of loan request;
 3. type and price of collateral;
 4. name, address, and phone number of contacted bank.
- B. Executive summary:
 1. business description;
 - a. name
 - b. location and plant description;
 - c. product or service;
 - d. market and competition;
 - e. management expertise;
 2. business goals;
 3. summary of financial needs and application of funds (sources and uses);
 4. earnings projections and potential return to investors.
- C. Market analysis:
 1. description of total market;
 2. industry trends;
 3. target market;
 4. competition.
- D. Products or services:
 1. description of product line;
 2. proprietary position: patents, copyrights and legal and technical considerations;
 3. comparison to competitors' products.
- E. Manufacturing process (if applicable):
 1. materials;
 2. sources of supply;
 3. production methods.

F. Marketing strategy:

1. overall strategy;
2. pricing policy;
3. sales terms;
4. method of selling, distributing and servicing products.

G. Management plan:

1. form of business organization;
2. board of directors composition;
3. officers: organization chart and responsibilities;
4. list of stockholders with more than 15 percent ownership;
5. resumes of key personnel;
6. staffing plan/number of employees;
7. facilities plan/planned capital improvements;
8. operating plan/schedule of upcoming work for next one to two years;
9. list of work backlog, if any.

H. Financial data - See Note 1:

1. financial history (five years to present if applicable);
2. three-year financial projections (first year by quarters; remaining years annually);
 - a. profit and loss statements;
 - b. balance sheets;
 - c. cash flow chart;
 - d. capital expenditure estimates;
3. explanation of projections;
4. key business ratios;
5. explanation of use and effect of new funds;
6. potential return to investors compared to competitors and industry in general;
7. current signed personal financial statements of owners.

Note 1: All financial statements must meet Generally Accepted Accounting Principals (GAAP)

Applicants that have already assembled an SBA 7A loan package may substitute it for the above outlined Business Plan.

In both cases the bank will be asked to share with LEDC any additional information deemed necessary by the bank for them to make a credit decision.

This proposed rule is scheduled to become effective August 20, 1993, or as soon thereafter as is practical upon publication in the *Louisiana Register*. Interested persons may comment on the proposed rules until June 30, 1993, to Tracy Mandart, Executive Director, Economic Development Corporation, Box 94185, Baton Rouge, LA 70804-9185.

Tracy Mandart
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: SMALL BUSINESS LOAN PROGRAM

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no known costs to the state or local government.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be approximately \$34,368 of revenue collections produced annually from a one percent guaranty fee.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The program will benefit small and medium sized business owners by making available capital for expansions that would not ordinarily be available. The small business owners will in turn be able to create and preserve jobs. The Economic Development Corporation will be able to leverage its funds 4:1

and the private capital contribution will be 15 - 20 percent. A guarantee fee of .5 - 1.5 percent will be collected by LEDC.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Since this program does not make direct loans it is not in competition with the private sector and therefore will not negatively affect private sector employment. Because economic development is the purpose of the program net new jobs will be created through the development of new and expanded businesses.

Tracy Mandart
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Economic Development and Gaming Corporation**

Corporation Formation, Powers and Liability
(LAC 42:IX.Chapters 9-13)

The Board of Directors of the Louisiana Economic Development and Gaming Corporation hereby gives notice of its intent to adopt LAC 42:IX.Chapters 9-13, pertaining to articles of incorporation, by-laws and rules of procurement, the text of which can be read in its entirety in the emergency rule section of this May, 1993 *Louisiana Register*.

All interested persons may send or hand deliver written comments regarding the proposed rules until June 8, 1993 to Christopher C. Pickren, Economic Development and Gaming Corporation, One Canal Place, 365 Canal Street, Suite 2700 New Orleans, Louisiana 70130.

In lieu of the above action, comments may be faxed to the attention of Christopher C. Pickren at (504) 568-6410.

Max Chastain
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: ARTICLES OF INCORPORATION, BY-
LAWS AND PROCUREMENT CODE**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Estimated implementation costs for the Economic Development and Gaming Corporation in 92-93 are \$1,522,850 and up to 60 positions; in 93-94 will be \$6,360,000 including 118 positions and in 94-95 will be \$5,225,000 and up to 118 positions. These costs will be paid from current general fund appropriations in 92-93 and from various fees and gaming revenues in future years. Exact costs to the City of New Orleans are undetermined as of this time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenues to state government are statutorily required to be \$100 million in each full year of the permanent casino's operation. Revenues from a temporary facility are statutorily required to be at least 25 percent of net gaming proceeds;

however, the exact amount cannot be estimated at this time as no proposal has been received by the corporation. Revenues to the City of New Orleans from the lease of the Rivergate will include at least reimbursement of the \$37 million costs, plus land leased revenues of \$12 million or more, plus additional sales, occupancy taxes and other revenue.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The casino operator is expected to gross over \$600 million per full year of operation of the permanent facility. There may be other costs and/or economic benefits that cannot be estimated at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

In addition to the over 400 state and local government positions to be created, over 5,000 direct jobs with the casino operator are expected upon opening of a permanent facility, plus 15,000 to 20,000 spin off jobs.

Max Chastain
Chairman of the Board

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Economic Development
Used Motor Vehicle and Parts Commission**

Trade Shows (LAC 46:V.3603 and 3605)

In accordance with Revised Statutes Title 32, Chapters 4.A-B, the Department of Economic Development, Used Motor Vehicle and Parts Commission, proposes to amend the following rules.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part V. Automotive Industry
Subpart 2. Used Motor Vehicle and Parts Commission
Chapter 36. Motor Vehicle Trade Shows
§3603. License, Fees and Applications**

* * *

- A. - B. ...
- 1. - 4. ...
- 5. An application fee of \$100.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:113 (February 1990), amended LR 19:

§3605. Qualifications and Eligibility of Motor Vehicle Trade Shows

* * *

I. The executive director may, upon approval by the commission, suspend or modify any portion or portions of these rules and regulations herein when it is in the best interest of the community in which the trade show is being held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:772.E and 32:774.E.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 16:114 (February 1990), amended LR 19:

Interested persons may submit written comments concerning these proposed amendments until June 30, 1993, to John W. Alario, Executive Director, Louisiana Used Motor Vehicle and Parts Commission, 3132 Valley Creek Drive, Baton Rouge, LA, 70808.

John W. Alario
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: TRADE SHOWS**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Implementation costs will not be incurred for the proposed rule. It is anticipated that the commission will utilize existing personnel and equipment, as the same services will be provided.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be an increase in self-generated revenues of approximately \$500 per fiscal year as a result of the proposed rule. The existing rule is being amended to increase the permit fee for out-of-state exhibitors in motor vehicle trade shows from \$50 to \$100.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

Trade shows will enhance public interest in outlying areas of the state. State revenues will be increased due to consumers and used motor vehicle dealers from other states who will be staying overnight and purchasing food and drinks. This agency is unable to determine an effect of costs or impact of revenues since motel/hotel rates and restaurant charges vary so widely.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

Due to out-of-state used motor vehicle dealers attending trade shows or exhibitions, this would allow more competition for licensed Louisiana dealers.

John W. Alario
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Education
Quality Science and Mathematics Council**

Grant Guidelines (LAC 28:VII.Chapter 1)

The Quality Science and Mathematics Council proposes to adopt the following rules.

Under the requirements of the legislation creating the Quality Science and Mathematics (QSM) Program, a

mechanism must be established by which a continuous supply of appropriate supplies and materials can be obtained, maintained, and made available to those teachers who are ready and able to use them in providing appropriate and challenging instruction in science and mathematics to their students.

**Title 28
EDUCATION**

Part VII. Systemic Initiatives Program

**Chapter 1. Quality Science and Mathematics Program
Grant**

§101. Distribution of QSM Request for Proposals

A. Direct Solicitation. Requests for proposals will be distributed to each public parish and city school system.

B. Published Announcement. A request for proposals will be published in *The Advocate* (Baton Rouge) and one or more additional newspapers in the state. Requests for proposals will be sent to all parties requesting a proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:371-377.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19:

§103. Submission of Proposals

A. One original proposal, with signatures, and three copies, must be submitted to the QSM office at the address indicated in the request for proposals. Proposals must be in the QSM office, not simply postmarked, by the date and time indicated in the request for proposals.

B. All proposals must conform to the format as set out in the request for proposals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:371-377.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19:

§105. Proposal Review Process

A. Review of QSM Grant Proposals

1. QSM will form panels for the purpose of reviewing proposals.

2. Proposals will be sent to an appropriate review panel.

3. Each panel member will assess proposals according to the "General Guidelines and Criteria for Evaluation of QSM Grant Proposals" as set forth in the latest request for proposals.

4. Each panel will prepare a summary report which separately assesses each proposal.

5. The panel reports will be forwarded to the review teams.

B. Review Teams

1. The review teams, one in mathematics and one in science, will be comprised largely of QSM council members.

2. The review teams will:

a. consider the summary reports of the review panels;
b. place grant proposals into two categories: recommended for funding and not recommended for funding;
c. rank the recommended proposals from highest to lowest.

3. The review teams will forward recommendations for funding to the full QSM Council and its executive director.

C. The QSM Council will make funding decisions

considering the recommendations of the review teams.

1. The QSM Council will assign a final ranking for funding to all projects from highest to lowest priority.

2. The QSM Council will fund projects, beginning with the highest priority and continuing downward toward the lowest priority, until the total amount approved for project funding approaches, but does not exceed, QSM's allocated budget.

3. The QSM Council may, upon an individual's refusal of a grant award, offer the available money to the next ranked proposal(s) in science or mathematics in the order of ranking, and in accordance with QSM budget guidelines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:371-377.1

HISTORICAL NOTE: Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19:

§107. Protest Procedure

A. An individual whose proposal was not selected for funding may request, in writing, a special review of his/her proposal. The request must be received by QSM at its office in Baton Rouge, Louisiana within 10 days following QSM's announcement of funded grant proposals as specified in the RFP.

B. A special review panel will evaluate the denial of funding of the individual's proposal. The special review panel will be comprised of:

1. the chairman of the QSM Council;
2. the executive director for the QSM Program;
3. dean, LSU College of Education.

C. The special review panel will evaluate the denial of funding by taking into consideration the reports submitted by the review panel, the review teams, and the full QSM Council.

D. The special review panel will forward to the protesting individual a written report of its evaluation. The special review panel's report is a final decision if it affirms the denial of funding.

E. If the special review panel recommends reversal of the denial of funding, the following procedures will be followed:

1. The QSM Council will re-evaluate the proposal with consideration given to the special review panel's report. The council will then make a final decision concerning the proposal's funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:371-377.1

HISTORICAL NOTE: Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19:

§109. Withdrawal of Funding

A. The Quality Science and Mathematics Program will notify an individual and his/her building administrator, in writing, of the intent to withdraw funding within a funding year. The written notice will include the reason(s) for withdrawal.

B. Upon withdrawal of funding, QSM funds received by an individual must be reimbursed to the equipping fund.

C. The individual may request a hearing within five days of receipt of the notice of withdrawal. The request must be in writing.

D. Upon receiving a request for a hearing, the QSM Council shall schedule a hearing at the earliest possible date.

E. Written notification will be given to the individual and will include:

1. date and time of the hearing;
2. place of the hearing;
3. explicit reason(s) for the withdrawal of funds.

F. A hearing officer shall conduct the hearing and shall render a decision within 10 days after the hearing is completed. Written notification of the decision shall be mailed to the interested parties. The hearing officer's decision will become final within 15 days unless an appeal is filed.

G. An appeal of the hearing officer's decision may be made to the Louisiana State Department of Education's superintendent by submitting, in writing, a request for the superintendent to review the hearing officer's decision. The appeal to review the decision must be received in the superintendent's office no later than 15 days after the hearing officer's decision is received. If no appeal is filed, or an appeal is not filed in a timely manner, the hearing officer's decision is final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:371-377.1.

HISTORICAL NOTE: Promulgated by the Department of Education, Quality Science and Mathematics Council, LR 19:

Inquiries and comments regarding these proposed rules should be addressed to Dr. Sheila Pirkle, Executive Director, Quality Science and Mathematics Council, 107 Peabody Hall, Louisiana State University, Baton Rouge, LA 70803.

Dr. Sheila Pirkle
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: GRANT GUIDELINES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs associated with these proposed rules.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
These proposed rules will have no effect on revenue collections.
- 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 these proposed rules.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no effect projected on competition and employment.

Sheila Pirkle
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

LEO Alternative Credit Report

The Louisiana Student Financial Assistance Commission announces its intention to amend the Louisiana Employment Opportunity (LEO) Loan Program Policy and Procedure Manual to provide an alternate procedure for the processing of credit reports and report fees. Manual sections will be revised as follows:

2.3 The student trainee shall:

A-B....

1. Credit report fee to the guarantor or to the employer as provided in the agreement between the employer and LASFAC.

2....

3. The total fees charged shall never exceed 12 percent of the amount loaned.

* * *

3.1.3 Employer's Certification for Guarantee

A....

B. If authorized by agreement with LASFAC, the employer shall procure a credit report on an applicant and, if applicable, a report for a cosigner, from the credit reporting agency designated by LASFAC. The credit report shall be used by the employer to prescreen the applicant and, for applicants that appear to meet the creditworthiness standards, forward the report/s to LASFAC for its action.

C. The employer shall ...

1-4....

D. The employer shall then promptly certify ...

* * *

3.2.4 How Lender Handles the Refund of the Credit Report and Guarantee Fees

A....

B. To refund the guarantee fee, the lender shall credit the credit report and guarantee fees to the borrower's LEO account:

1. If the lender paid the guarantee and credit report fees to LASFAC, seek the return of the guarantee fee by completing column "8" and the return of the credit report fee by amending column "6" of the "Request for Insurance Premium Refund" form (LASFAC Form 6) to indicate amount of fee along with the amount canceled. Refund of fees will only be processed on loans which are fully canceled prior to 120 days after guarantee.

2. If the lender paid the guarantee fee to LASFAC, and the cost of the credit report fee to the employer, seek the return of the guarantee fee as indicated in 3.2.4 B 1 and bill the employer for return of the credit report fee.

C. Credit report and guarantee fees paid to LASFAC on loans that are canceled on LASFAC's system more than 120 days after the certified date of disbursement shall be retained by the agency. Credit report fees paid to the employer on loans canceled more than 120 days after the certified date of

disbursement shall be returned to the lender by the employer. Claims will not be accepted for fees only.

* * *

4.1.5 Employer Calculation and Distribution of Refund

A....

B. Guarantee fees and credit report fees paid to LASFAC on loans that are canceled more than 120 days after the actual date of disbursement shall be retained. Credit report fees paid to the employer must be refunded to the lender for application to the borrower's account.

* * *

4.2.1 How Lender Handles Refund of Fees

A-B....

1. Seek return of fees in accordance with 3.2.4 B.
2. Credit the fees to the borrower's LEO account.

* * *

Interested persons may submit written comments on the regulations until 4:30 p.m., July 20, 1993 addressed to: 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: LEO LOAN PROGRAM ALTERNATIVE CREDIT REPORT

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs or savings associated with this rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
If a participating employer elects to prescreen applicants for creditworthiness as authorized by this rule change, the agency's revenue would be reduced by \$3 per LEO Loan applicant.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The employer will be provided the opportunity to prescreen applicants' credit histories and reject applicants that do not meet the employer's standards and to obtain cosigners where applicable before the applicant or the employer have incurred an expense.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition or employment will result from this change.

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 (TAP) Income Adjustment

The Louisiana Student Financial Assistance Commission announces its intention to provide procedures to make the annual inflationary adjustment to family gross income eligibility limitation in the Tuition Assistance Plan. The Scholarship and Grant Policy and Procedure Manual, Chapter VI, Section C h will be amended as follows:

h. Demonstrate financial need as defined herein:

i....

ii. In determining the eligibility of applicants, the family adjusted gross income base amount applicable to the award year (\$25,000 for 1992-93) shall be multiplied by the inflation index rate reported for that year (3.31 percent for 1992) and the result, rounded up to the next whole dollar (\$828 for 1992), shall be added to the base amount to become the adjusted base amount (\$25,828 for 1993-94). The adjusted base amount shall become the base amount for future adjustments under this procedure. The \$5,000 allowance for each additional dependent child shall be added to the base amount to determine the family's adjusted gross income eligibility limitation. The dependent allowance shall not be adjusted for inflation.

Interested persons may submit written comments on the regulations until 4:30 p.m., July 20, 1993, addressed to: 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: TAP INCOME ADJUSTMENT

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No implementation costs are projected to result from this legislatively mandated rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No revenue changes will be incurred as a result of this change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Ensures the intended target group of scholarship recipients (in 1989 families with an income of less than \$25,000) are not disenfranchised over time as family income grows and the statutory threshold for eligibility remains fixed at \$25,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No impact on competition or employment will result from this change.

Jack L. Guinn
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Emissions Control (LAC 33:III.919) (AQ 74)

Under the authority of the Louisiana Environmental Quality Act, particularly R.S. 30:2060 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.919, (Log AQ74).

The rule requires the submittal of emission inventories and the certification of the submittal. The rule defines applicability, minimal data requirements and the requirements for the certification statement. The technical amendments are to clarify the requirements of the rule.

These proposed regulations are to become effective on August 20, 1993, or upon publication in the *Louisiana Register*.

Title 33 ENVIRONMENTAL QUALITY

Part III. Air

Chapter 9. General Regulations on Control of Emissions and Emission Standards

§919. Emission Inventory

* * *

A. Applicability. The owner or operator of the following facilities in the state of Louisiana shall submit emissions inventories to the Louisiana Department of Environmental Quality.

1. Any facility in an attainment area or unclassified area that emits or has the potential to emit 100 tons per year (TPY) or more of any contaminant [including volatile organic compounds (VOC)] for which a National Ambient Air Quality Standard (NAAQS) has been issued or any facility in an ozone nonattainment area that emits or has the potential to emit 10 tons per year (TPY) volatile organic compounds (VOC), 25 TPY nitrogen oxides (NO_x), or 100 TPY carbon monoxide (CO), or any facility that emits or has the potential to emit 50 TPY or more of VOC in an area designated as an ozone adjoining area. (Potential to emit refers to the "allowables" or permitted emission limits in a facility's permit.) The designated ozone nonattainment and adjoining parishes are listed in Table 1. If any pollutant meets the criteria above, then all other pollutants must be included in the report regardless of level of emissions.

* * *

B. Types of Inventories

1. Annual Emissions Statement (AES). Stationary sources as identified in Subsection A of this Section, shall submit an Annual Emissions Statement (AES) for all criteria pollutants including VOC and hazardous air pollutants. The AES shall consist of an inventory of actual emissions and the allowable (permitted) emission limits of VOC, NO_x, CO, sulfur dioxide (SO₂), lead (Pb), and particulate matter of less

than 10 microns in diameter (PM₁₀) from stationary sources and emissions of all hazardous air pollutants identified in Section 112(b) of the FCAA, and the certifying statement. Methane, ethane, and CFCs are not included in VOCs and are not reportable. The emission inventory may be an initial emission inventory (IEI) for facilities submitting their first emission inventory or an annual emission inventory update (AEIU) for facilities which have previously submitted an emission inventory. For purposes of this Section, the term "actual emission" is the actual rate of emissions (annually and hourly) of a pollutant from an emission point for the calendar year or other period of time if requested by the department. Actual emission estimates shall also include fugitive emissions (e.g., wastewater treatment; treatment, storage and disposal facilities; etc.) excess emissions occurring during maintenance, start-ups, shutdowns, upsets, and downtime to parallel the documentation of these events in the emission inventory and must follow emission calculations as identified in Subsection C of this Section. Excess emission is defined as an emission quantity greater than normal operations. Where there is an enforceable document, such as a permit, establishing allowable levels, the AES shall include the allowable emission level as identified in the permit Maximum Allowable Emission Rate Table and the allowable tons per year.

2. **Statewide Annual Emission Inventory Update.** Facilities as identified in Subsection A of this Section shall submit an Annual Emission Inventory Update (AEIU) which consists of actual and allowable emissions from the facility identified in Subsection A.1 of this Section, if any of the following criteria are met:

* * *

b. any change in the values currently in the emission reporting system for operating conditions including start-ups, shutdowns, or process changes at the source that results in a 5.0 percent or greater increase or reduction in total annual emissions of individual pollutant: VOC, NO_x, CO, SO₂, Pb, or PM₁₀. VOCs that are also hazardous air pollutants are to be viewed as total VOC for the purpose of determining significant change.

* * *

3. **Ozone Nonattainment Area Statement.** Stationary sources in ozone nonattainment areas that emit or have the potential to emit 10 TPY of VOC, 25 TPY of NO_x, or 100 TPY of CO shall submit an annual statement. The statement shall consist of actual, annual emissions and typical weekday emissions that occur during the three-month period of greatest or most frequent ozone exceedances as provided by the department in the annual instructions for completing and submitting emissions inventories. "Typical weekday" emissions are defined as an "average" of two actual daily emissions rates (one at the lowest emission rate and one at the highest emission rate) during a seven-day period.

4. **Special Inventories.** Upon request by the administrative authority, any facility subject to any rule of the Air Quality Division shall file additional emissions data with the department. The request shall specify a reasonable time for response, which shall not be less than 60 days from receipt of the request.

5. **Minimum Data Requirements.** The minimum data requirements are listed below. Operating and process rate information are for the purposes of information gathering only, and do not constitute permit limits. Subsection A.1 of this Section states that submittal of a report of increased emissions above allowable limits under this regulation does not replace the need for compliance with LAC 33:III.505.A which requires a permit request to initiate or increase emissions. Format and submittal requirements will be published annually by the department. Any new or modified data requirements will be included in the annual requests for updates. Any substantive changes will be established in accordance with the Administrative Procedure Act. The minimum data requirements apply to initial submittals only. Data requirements for updates require that only those data elements which have changed be submitted:

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), repealed and repromulgated by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:184 (February 1993), amended LR 19:

A public hearing will be held on June 25, 1993 at 1:30 p.m. in the Maynard Ketcham Building, Third Floor Hearing Room, Room 326, 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 June 28, 1993, 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 Log AQ74.

James B. Thompson, III
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: EMISSION INVENTORY AQ74**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
The estimated implementation costs to the state or local governmental units are none.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
There will be no effect on revenue collections for state or local governmental units.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
There will be no costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Gus Von Bodungen
Assistant Secretary

John R Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary

Release Notification (LAC 33:I.Chapter 39;
LAC 33:III.927 and 5107; and LAC 33:XI.713) (OS15)

Under the authority of the Environmental Quality Act, particularly R.S. 30:2025.J et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend LAC 33:I.Chapter 39. This rulemaking also amends LAC 33:III.927 and 5107.B and LAC 33:XI.713 (OS15).

The proposed regulations will establish a uniform reporting procedure to receive notice of releases which cause emergency conditions, thus allowing the Department of Public Safety and Corrections and the Department of Environmental Quality to properly respond to these incidents to protect the health and well-being of the people of the state and to prevent and mitigate damage to property or the environment due to these unauthorized incidents.

The regulations will also revise and standardize the requirements for prompt notification to the DEQ of unauthorized discharges which exceed a reportable quantity but do not cause an emergency condition.

These proposed regulations are to become effective on August 20, 1993, or as soon thereafter as practical upon publication in the *Louisiana Register*.

A public hearing will be held on June 25, 1993, at 1:30 p.m. in the Maynard Ketcham Building, Third Floor Hearing Room, Room 326, 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 and should be submitted no later than June 28, 1993, 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 OS15.

This proposed regulation may be obtained from the Office of the State Register, 1051 North Third Street, Baton Rouge, LA and is available for inspection at the following locations from 8:00 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 Thirty-First Street, Monroe, LA 71203

Department of Environmental Quality, State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101

Department of Environmental Quality, 3519 Patrick Street, Lake Charles, LA 70605

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: RELEASE NOTIFICATION (OS15)

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There should be no appreciable costs to the state in implementing these revised standards. Act 200 of the 1989 Regular Session required the Department of Environmental Quality and Department of Public Safety and Corrections to jointly establish a uniform reporting procedure for all emergency releases of hazardous substances. The Department of Public Safety, upon receiving the emergency notifications, will immediately advise the Department of Environmental Quality of the reported releases.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections in implementing these revised standards.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The revised notification regulations will eliminate the need for industries/facilities to make dual reports to state agencies to advise them of emergency chemical releases. The regulations will also more closely track the federal CERCLA regulations relative to reportable quantities for releases of hazardous materials and may result in a cost savings to the regulated community. There will be some minor reportable quantity differences regarding air releases which result in an additional notification to the state; however, the costs for these extra notifications will be negligible. The DEQ has also established a reportable quantity for brine (saltwater) released into the environment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no appreciable effect on competition and employment as a result of these regulations.

James B. Thompson
Assistant Secretary

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

Office of the Governor Office of Elderly Affairs

Frail Elderly Program (LAC 4:VII.1243)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) intends to adopt the following rule, effective August 20, 1993. The purpose of this rule is to implement R.S. 46:937 through 46:937.3.

Title 4

ADMINISTRATION

Part VII. Governor's Office of Elderly Affairs

Chapter 11. Elderly Affairs

§1243. Frail Elderly Program

A. Intent

1. The Frail Elderly Program (hereafter referred to as "the program") is designed to provide home and community services to persons 60 years of age or older who have some degree of functional impairment. Such impairment shall be determined by the comprehensive assessment conducted in accordance with Subsection D of this Section.

2. In areas serviced by a voluntary council on aging which agrees to participate, the program shall be administered by the council, subject to the rules and regulations promulgated by the Office of Elderly Affairs (hereafter referred to as "the office").

3. Participating councils on aging shall aggressively market these services to the community and expand their service capabilities to meet the need of frail older people.

C. Objectives. The program has three objectives:

- a. to provide services to eligible participants who are in need and are willing to pay for such services;
- b. to ensure that eligible participants who are able to pay for all or a portion of the cost of a service do so; and
- c. in the process of implementing the above two objectives, to utilize additional resources to expand services and reduce the number of people on waiting lists.

D. Eligibility. Eligibility for the program shall be determined on the basis of the assessment conducted using the Intake/Assessment instrument developed by the office. No person shall receive services under this program without such services being authorized on the basis of the comprehensive assessment results.

E. Funding

1. Funding for the program shall be provided by that portion of appropriations from the state general fund to the parish voluntary councils on aging not needed to match the federal Older Americans Act or other matching fund programs.

2. The office shall establish fees for each service provided under the program. Persons eligible for the program shall be assessed an appropriate fee on a sliding scale based upon the person's ability to pay. Clients not required to pay shall be informed of service costs, and be allowed to voluntarily contribute to the cost.

3. In this program, it shall be considered that state funds are expended first. While participating councils on aging will be allowed to keep a "reserve" fund, the amount of such fund shall be limited. Maintaining a large cash surplus would be inconsistent with the intent. Therefore, a high percentage of collected fees shall be utilized to provide additional services. Funds remaining unexpended at year end will be considered as fee revenue.

4. All fee revenue generated by the program shall be utilized only for the purpose of increasing the provision of any of the services allowed under this program to eligible persons.

F. Service Definitions. Uniform definitions of services in the Frail Elderly program shall be developed by the office and employed by all participating councils on aging as provided in LAC 4:VII.1217.

G. Reporting

1. Participating councils on aging shall submit reports to the office as required.

2. The office shall report annually to the legislature on the implementation of the Frail Elderly Program as required by R.S. 46:937.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:937.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Elderly Affairs, LR 19:

A public hearing on this proposed rule will be held on Monday, June 28, 1993, in the GOEA Conference Room, 4550 North Blvd., Second Floor, Baton Rouge, LA 70805, at 1 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing.

Interested persons may submit written comments to the following address: Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70898-0374. Mary Tonore is the person responsible for responding to inquiries concerning this proposed rule. Comments will be accepted until 5 p.m. July 31, 1993.

James R. Fontenot
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: FRAIL ELDERLY PROGRAM

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections of state or local governmental units. However, parish councils on aging (COAs), which are private non-profit organizations, will collect additional revenues through fees for services rendered in the program. The fees will allow the COAs to expand services. The dollar amount of fees collected cannot be accurately determined at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The Frail Elderly Program will allow parish councils on aging to make home and community services available to functionally impaired elderly clients who are now having to secure them through private sources (if available) or do without.

Persons eligible for this program shall be assessed an appropriate fee on a sliding scale based upon the person's ability to pay. Funds collected shall be used to increase services under the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The impact on competition and employment is not known.

James R. Fontenot
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators

Continuing Education (LAC 46:XLIX.903 and 905)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 9. Continuing Education

§903. Requirements

A. ...

1. A person newly licensed between January 1, and December 31, of an even-numbered year must complete 30 hours of continuing education for the biennium beginning the following July. A person newly licensed between January 1, and December 31, of an odd-numbered year must complete 15 hours of continuing education for the second half of the biennium beginning the following July, and complete another 30 hours for the next biennium beginning July of the following odd-numbered year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 11:864 (September 1985), LR 4:240 (April 1987), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:

§905. Registration of Institutions as Providers of Continuing Education Courses

F. Programs offered by organizations that do not seek provider approval may be approved on an individual basis. Individual licensees may seek this approval by applying to the board. When the organization applies there is a fee of \$25. There is no fee when the individual licensee applies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504 and R.S. 37:2506.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:

Interested persons may submit written comments through June 30, 1993 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van Weems
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: CONTINUING EDUCATION

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no costs or savings to state or governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state and local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to affected persons. The change serves only to clarify a rule.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Van Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators

Language Clarification (LAC 46:XLIX.Chapters 1-17)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators.

The board proposes to amend Title 46:XLIX.Chapters 1-17 by making changes in spelling, grammar, punctuation, and language to bring them into compliance with Act No. 241 of the 1992 Louisiana Legislature. Proposed amendments will not make any basic changes but will serve to clarify and make consistent the language throughout the rules.

Copies of the proposed amendments can be obtained from the Office of the State Register, 1051 North Third Street, Room 512, Baton Rouge, LA 70802 and from the board at the address below.

Interested persons may submit written comments through June 30, 1993 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Blvd. Suite 115A, Baton Rouge, LA 70806.

Van Weems
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: RULE LANGUAGE CLARIFICATION

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There will be no costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There will be no effect on revenue collections of state and local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Van Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Health and Hospitals Board of Examiners of Nursing Facility Administrators

Preceptor Update (LAC 46:XLIX.703)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLIX. Board of Examiners of Nursing Facility Administrators

Chapter 7. Administrator-in-training (AIT)

§703. Preceptor

* * *

F. Preceptor Update. Preceptors must undertake biennial update training sponsored by the board in order to maintain this certification. The training qualifies as required continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2504.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 6:276 (June 1980), amended LR 9:62 (February 1983), LR 10:499 (July 1984), LR 12:511 (August 1986), repealed and repromulgated by the Department of Health and Hospitals, Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Board of Examiners of Nursing Facility Administrators, LR 19:

Interested persons may submit written comments through June 30, 1993 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Blvd. Suite 115A, Baton Rouge, LA 70806.

Van Weems
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: PRECEPTOR UPDATE

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There will be an approximate cost of \$6,300 per year to the board. No other state or local agency will be affected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS
OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The board will generate approximately \$6,300 per year in revenue. No other state or local agency will be affected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)

Licensed nursing facility administrators who are certified as preceptors will pay \$90 for an update seminar to maintain their certification and to meet continuing education requirements. There will be no added cost as they substitute this training for other training they now pay for.

IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)

There will be no effect on competition or employment.

Van Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Nursing Facility Administrators**

Reciprocity License Fee (LAC 46:XLIX.1107)

Under authority of R.S. 37:2501 et seq., and the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Examiners of Nursing Facility Administrators hereby gives notice of its intent to amend rules and regulations relative to licensing and regulating nursing facility administrators.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLIX. Board of Examiners of Nursing
Facility Administrators**

**Chapter 11. Licenses
§1107. Reciprocity**

* * *

E. A Louisiana licensee who applies for reciprocity in another state must pay a \$25 fee to the board to cover costs of completing and mailing necessary forms to the other state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2508.

HISTORICAL NOTE: Adopted by the Department of Health and Human Resources, Board of Examiners for Nursing Home Administrators, April 1970, amended and promulgated LR 9:461 (July 1983), repealed and repromulgated by the Board of Examiners for Nursing Home Administrators, LR 18:181 (February 1992), amended by the Department of Health and Hospitals, Board of Examiners of Nursing Facility Administrators, LR 19:

Interested persons may submit written comments through June 30, 1993 to Van Weems, Executive Director, State Board of Examiners of Nursing Facility Administrators, 4560 North Boulevard, Suite 115A, Baton Rouge, LA 70806.

Van Weems
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: RECIPROCITY LICENSE FEE**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The board incurs a cost of \$25 for each Louisiana licensee who applies for reciprocity in another state. There is no impact on any other state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The board would generate approximately \$125 additional revenue per year. No other state or governmental units are affected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
There would be a \$25 cost to each Louisiana licensee who applies for reciprocity in another state. Benefit of gaining

license by reciprocity saves affected licensees cost of retaking national licensing examination.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There would be no effect on competition and employment.

Van Weems
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

**Occupational Therapy Permit Pending Visa Application
(LAC 46:XLV.1940)**

Notice is hereby given, in accordance with R.S. 49:953, that the Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, 37:1270(B)(6), and the provisions of the Administrative Procedure Act, intends to adopt a rule providing for a provisional temporary permit to be issued to applicants for occupational therapy licensure who are required to possess an H-1 or equivalent visa, but whose application therefor is pending with the U.S. Immigration and Naturalization Service. LAC 46:XLV, Subpart 2, §1940. The proposed rule is set forth below.

Section 1940 of Subchapter E of Chapter 19 of Part XLV of Title 46 of the Louisiana Administrative Code shall be adopted to read and provide as follows:

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

**Chapter 19. Occupational Therapists and Occupational
Therapy Assistants**

**Subchapter E. Temporary License
§1940. Provisional Temporary Permit Pending
Application for Visa**

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;
2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or
3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to Subsection B(1) of this Section, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:

Inquiries concerning the proposed rule may be directed in writing to: Delmar Rorison, Executive Director, Louisiana State Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule, in writing, to the Louisiana State Board of Medical Examiners, Suite 100, 830 Union Street, New Orleans, LA, 70112-1499. Written comments must be submitted to and received by the board within 30 days from the date of this notice. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument or public hearing must be made in writing and received by the board within 20 days of the date of this notice.

Delmar Rorison
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: OCCUPATIONAL THERAPY PERMIT
PENDING VISA APPLICATION**

- I. **ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
It is not anticipated that the proposed rule will result in any additional costs to the Board of Medical Examiners.
- II. **ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**
It is not anticipated that the proposed rule will have any effect on the board's revenue collections.
- III. **ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**
It is not anticipated that the implementation of the proposed rule will have a material effect on costs, paperwork or workload of persons holding licenses, permits and registration issued by the board.
- IV. **ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**
It is not anticipated that the proposed rule will have any

impact on competition or employment in either the public or private sector.

Delmar Rorison
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Nursing Educational Programs (LAC 46:XLVII.Chapter 35)

Notice is hereby given that the Louisiana State Board of Nursing, under the authority of R.S. 37:918 intends to amend and adopt rules to establish standards for nursing education programs preparing individuals to be licensed as registered nurses.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Chapter 35. Nursing Educational Programs

§3511. Program: Philosophy, Purpose, Objectives

A. The nursing education program shall have a clear statement of philosophy, consistent with the philosophy/mission of the parent institution and congruent with current concepts in nursing education.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:185 (April 1977), amended LR 10:1024 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3513. Administration, Organization, Control

A. There shall be a governing body which has legal authority to conduct the nursing program, determine general policy and provide financial support.

B. ...

C. The program shall have comparable status with other educational units within the organizational structure of the parent institution.

D. The parent institution shall have an organizational chart which delineates the lines of responsibility and authority.

E. The program shall notify the board in writing, within two weeks, when there has been a change in the control of the institution, administrative head of the program, or the accreditation status of the educational facilities.

F. The program head shall have the authority and responsibility to administer the program in respect to:

1. the instructional program;
2. budget planning and management; and
3. administrative arrangements for faculty, staff, and students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977),

amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3515. Faculty and Faculty Organization

A. Faculty Body. There shall be qualified faculty adequate in numbers to provide a safe, effective faculty/student/client ratio not to exceed ten students to one faculty member (10:1) in a clinical setting and to implement the program in nursing in relation to its stated philosophy, purposes and objectives. The number and size of classes taught each year, and the number of community agencies and their geographic locations are considered in determining the number of required faculty (see Requirements for Preceptorship; LAC 46:XLVII.3541.A-J, for related standard).

B. Qualifications

1. The program head and each nurse faculty member shall hold a current license to practice as a registered nurse in Louisiana and shall be appointed in compliance with state and federal laws on non-discrimination.

2. The program head shall hold a minimum of baccalaureate and masters degrees in nursing, and preferably an earned doctorate, and shall have a minimum of three years experience in the areas of nursing education and three years in clinical practice.

3. The nurse faculty shall hold baccalaureate and masters degrees in nursing. Requests for academic equivalency shall be approved on an individual basis (see LAC 46:XLVII.3515.B.6 for related standard).

4. Nurse faculty shall have a minimum of two years of nursing practice in a clinical setting prior to their appointment.

5. Nurse faculty shall maintain current knowledge and skills in areas of responsibility and provide documentation of same.

6. Exceptions to the academic qualifications for nurse faculty shall be justified and approved under board-established guidelines. Such exceptions, if granted by the board shall be:

a. B.S.N. prepared individuals who are not enrolled in a masters in nursing program are limited to a maximum of one calendar year;

b. B.S.N. prepared individuals who are enrolled in a masters in nursing program shall be approved annually on an individual basis in accordance with current board guidelines. Exceptions may be granted to each individual for a maximum of three calendar years.

7. The number of faculty exceptions shall not exceed 20 percent of the number of full-time nurse faculty employed (not FTE) in the program.

C. A faculty resignation rate that exceeds one-third of the full-time nurse faculty employed by the program (not FTE) in an annual report shall be reported and justified in the Annual School Report.

D. ...

E. Policies for nurse faculty shall include but not be limited to:

1. qualifications for the position;
2. contract or letter of appointment to delineate terms of appointment, functions and responsibilities of the position; and E.3-I. ...

J. Nurse faculty shall be within the clinical facility during the learning experiences of students unless the students are

observing only or engaged in a board-approved preceptor or community health experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:186 (April 1977), amended LR 10:1025 (December 1984), LR 12:678 (October 1986), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3517. Student Selection and Guidance

A. ...

B. Qualified applicants shall be considered for admission without discrimination and in compliance with applicable state and federal laws and regulations.

1. Students who hold licensure in any health care discipline and who have disciplinary action against their license, and/or students who have felony convictions, shall petition the board for review and action regarding their approval to practice nursing in Louisiana prior to entry into the first clinical course.

2. Students who are licensed as registered nurses shall hold a current unencumbered Louisiana registered nurse license.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3519. Facilities, Resources, Services

A. ...

B. Classrooms, conference rooms, multipurpose rooms, learning laboratories and library resources shall be provided.

C. Offices for administrative personnel, faculty and support staff shall be provided.

D. ...

E. Nursing library resources shall be provided and:

1. holdings shall be organized, maintained, and readily accessible to students and faculty;

2. resources shall include current references, books and periodicals on nursing and related subjects, and historical references; and

3. a qualified library staff shall be provided.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:187 (April 1977), amended LR 10:1025 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3521. Curriculum

A. The faculty shall periodically review, evaluate and revise as appropriate the philosophy/mission, purpose(s), conceptual/organizational framework, objectives and outcomes of the program.

B. ...

C. The philosophy/mission, purpose(s), conceptual/organizational framework, objectives and outcomes shall be used by the faculty in planning, implementing and evaluating

the total program.

D. The objectives and outcomes shall be consistent with the philosophy and describe the cognitive, affective and psychomotor capabilities of the graduate.

E. The curriculum shall include, but not be limited to, content from the behavioral, biological, mathematical, nursing and physical sciences.

F. Opportunities shall be provided for the application of the nursing process throughout the curriculum and in a variety of settings.

G. ...

H. 1. The nursing courses shall provide for classroom and clinical laboratory instruction so that concepts taught in the classroom and clinical instruction shall occur within the same instructional block and shall be under the supervision of a faculty member of the nursing program.

2. Provision shall be made for learning experiences with clients having nursing care needs in all age groups and stages of the health-illness continuum as appropriate to the role expectations of the graduate.

I. Provision shall be made for the development of other knowledge and skills as deemed necessary by the faculty and as appropriate to the role expectations of the graduate.

J. The curriculum shall be arranged to provide opportunities for upward career mobility for students who have completed other nursing programs and have met appropriate requirements for licensure.

1. Mechanisms for the recognition of prior learning and advanced placement in the curriculum shall be in place.

2. Any formalized agreements between programs to facilitate the transfer of credit between nursing programs shall be identified and described.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:188 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3523. Program Evaluation

A. ...

1. philosophy/mission, purpose(s), conceptual/organizational framework, objectives and outcomes of the curriculum;

2. teaching/learning experiences;

3. expected competencies of the graduate;

4. student(s) evaluations of courses;

5. instructor evaluations of students;

6. performance of graduates on the National Council Licensure Examinations (NCLEX-RN);

7. follow-up studies of the graduates; and

8. employment functioning of the graduates.

B. The nursing education program shall have a pass rate of 80 percent or greater achieved by the candidates taking the licensure examination for the first time in any one *January to December* calendar year, or the program shall be placed on conditional approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health

and Human Resources, Board of Nursing, LR 3:188 (April 1977) amended by the Department of Health and Hospitals, Board of Nursing, LR 15:1081 (December 1989), LR 19:

§3527. Records and Reports

A. The nursing education program and the parent institution shall develop and implement a systematic plan for maintaining student records in accordance with accepted academic standards.

1. Student Records

a. Each student's records include an application, progression evaluation, and graduation forms which are kept on file for a minimum of one year after graduation or three years after termination from the program if the student does not graduate.

b. The application and final transcript are kept on file permanently.

B. Faculty Records. Faculty records shall be on file in the nursing education program and/or in the parent institution and shall be in compliance with existing Federal, State and institutional requirements.

C. Other records shall be kept on file and shall include:

1. current program bulletin;

2. current budget and fiscal reports;

3. current contracts with cooperating agencies;

4. minutes of nurse faculty committee meetings;

5. graduates' performance on NCLEX-RN;

6. follow up studies of the graduates; and

7. program self-evaluation studies.

D. The nursing education program submits to the board the following reports:

1. annual report on the form provided by the board;

2. interim reports on the form provided by the board;

3. self-study report on the form provided by the board;

and

4. other reports as deemed necessary by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended LR 10:1026 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3529. Selection and Use of Clinical Facilities

A. Hospitals used for clinical experiences shall be licensed by the state of Louisiana and certified by the Health Care Financing Administration (HCFA). In addition, hospitals should be accredited by the Joint Commission of Accredited Health Organizations (JCAHO). Other health care agencies shall be accredited or approved by a recognized accrediting or approving agency.

B.-C. ...

D. Contractual agreements between the program and the agency shall be in writing, shall state rights and responsibilities of each party, shall include a termination clause and are reviewed biennially.

E. The facility shall have:

1. a written philosophy of patient/client care which gives direction to nursing care;

2. qualified registered nurses to insure the safe care of patient and to serve as role models for students;

3. a sufficient number of patients/clients to provide learning experiences to meet the objectives of courses;

4. an environment in which the student is recognized as a learner;
5. established standards for nursing care congruent with the board's legal standards for nursing care;
6. criteria for making patient assignments;
7. complete and current policy and procedure manuals available;
8. available evidence of nursing quality assurance programs;
9. clearly defined written personnel policies, including job descriptions for all categories of nursing personnel;
10. a planned program for orientation, in-service, and continuing education programs for nursing personnel;
11. a means of communication between faculty and agency administrative personnel and between faculties of all nursing education programs that use the agency;
12. evidence that the agency's personnel understand their relationship to faculty and students and that the responsibility for coordination is specifically identified; and
13. designated conference areas on, or in close proximity to clinical learning sites.

F. The program head shall notify the board in writing when a clinical agency being used for students' clinical practice loses accreditation or approval status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 3:189 (April 1977), amended by the Department of Health and Hospitals, LR 16: (February 1990), LR 19:

§3535. Procedure of Continuing Full Approval

A. On-site surveys shall be made on a scheduled basis, at the discretion of the board, or upon the request of the program.

B. Programs holding full Louisiana State Board of Nursing approval for a minimum of five consecutive years and full National League for Nursing accreditation may request to have Louisiana State Board of Nursing survey visits coordinated with National League for Nursing accreditation visits. Following receipt of the official request by the program, the date of initiation of this process for the program shall be determined by the board.

1. An on-site visit shall be conducted by an authorized representative of the board within six months following each National League for Nursing accreditation visit.

2. To meet the self-study requirements, the National League for Nursing self-study report and the addendum required by the board shall be submitted to the board at least 21 days prior to the scheduled on-site survey visit.

3. A copy of any National League for Nursing correspondence concerning accreditation and National League for Nursing interim reports shall be forwarded to the board.

C. An on-site survey of a nursing education program which does not hold full National League for Nursing accreditation status shall be conducted by an authorized representative of the board at least every five years.

D. A written report of the on-site survey is sent to the administrative officer of the parent institution, to the program head, and to all board members.

E. The program head may submit a response to the report

of the on-site survey and also be present when the board reviews and acts upon the report.

F. Action relevant to the approval status of the program is taken by the board after an evaluation of:

1. the on-site survey document; or
2. the program's annual report; or
3. evidence that indicates the program fails to meet the standards and requirements.

G. The board shall provide for an evaluation and hearing to determine if a program has met or has failed to meet the standards and requirements and:

1. gives written notice that the standards have been met and continues full approval or restores approval; or
2. gives written notice of specified deficiency(ies) and places the program on conditional approval for a period of one year.

H. A program has the right at any time to present evidence to the board that the deficiency(ies) has been corrected and may petition the board to restore full approval to the program.

I. No later than 12 months from the date the program was placed on conditional approval, the program shall submit a written report to the board with evidence that the standard(s) have been met, and may petition the board to restore full approval.

J. If a deficiency(ies) cannot be corrected in 12 months, the program shall file a plan for meeting the standard(s) and may petition the board to continue the conditional approval status.

K. Conditional approval status is not granted to a program for more than three consecutive one year periods.

L. After three consecutive years on conditional approval a program shall not admit any students into the nursing sequence until the board has determined that all standards have been met.

M. The right to appeal the board's decision is afforded any program in accordance with R.S. 37:918(C) and the Louisiana Administrative Procedure Act, Section 965 Appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1027 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3537. Procedure for Proposed Major Change in Curriculum

A nursing education program proposing a major curriculum change shall submit to the board, six months prior to date of implementation, the following:

- A. evidence that the parent institution has approved the curriculum change;
- B. rationale for the proposed change;
- C. philosophy/mission, purpose(s), conceptual/organizational framework, outcomes, program objectives, course objectives and course outlines;
- D. concise presentation of current and proposed curriculum;
- E. time table for implementation of the change in curriculum;
- F. an explanation of the anticipated effect on currently enrolled students; and

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

§3539. Procedure for Submitting Required Forms and Reports

A. Annual Report. The nursing education program shall submit 10 copies of an annual report, on a form provided by the board, on the designated date, accompanied by one copy of the current school catalog.

B. Interim Reports

1. A "Faculty Qualification" form shall be submitted on a form provided by the board at the time each new faculty member is employed.

2. The nursing education program submits a "Clinical Facility Survey" form requesting approval of new clinical facilities needed for students' clinical practice areas. Board approval shall be secured in accord with §3529.B prior to the time students are assigned to the new facility.

3. Any program required to submit a National League for Nursing Interim Report shall submit a copy of the report to the board.

C. Self Study

1. A self study shall be submitted to the board 21 days prior to the scheduled on-site survey of the program.

2. The National League for Nursing self study report and the addendum required by the board may be submitted to meet the self study requirements of the board. (Related Standard 3535 B)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:1028 (December 1984), promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

Comments concerning the proposed rules may be directed in writing to Barbara L. Morvant, MN, RN, Ex. Dir., LSBN 150 Baronne St. Suite 912, New Orleans, LA 70112.

Barbara L. Morvant, R.N.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: NURSING EDUCATIONAL PROGRAMS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated cost savings to the Board of Nursing is \$733 per year based on the savings of travel expenses and postage for two survey visits. Workload adjustments would not constitute a reduction in personnel. The overall cost for the 21 nursing programs now approved will remain the same; however, the cost will be incurred over an eight year cycle rather than a five year cycle.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated revenue decrease is \$400 per year. The revenue for approving the current 21 approved schools of nursing under the jurisdiction of the board will be received over an eight year cycle rather than a five year cycle. This would average for the current programs at \$315 per year decrease.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

It is anticipated that there will be some cost benefit for nursing education programs taking the option to correlate the National League for Nursing accreditation with the LSBN survey process and which receive a full eight year accreditation status. The program will not have to duplicate efforts of faculty in preparing a self study report for the Board of Nursing and the National League for Nursing. Also, proposed adjustment in the faculty exceptions standards will assist programs with decreasing cost associated with recruitment and orientation of faculty.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

These rules will increase the number of individuals eligible for employment as faculty in schools of nursing. Individuals prepared with a baccalaureate in nursing and who are actively pursuing a masters in nursing may serve as faculty members for a total of three years by exception as long as the number of such individuals does not exceed 20 percent of the total faculty for a given program.

Barbara L. Morvant, RN
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Nursing**

Nursing Educational Programs (LAC 46:XLVII.3536)

Notice is hereby given that the Louisiana State Board of Nursing under the authority of R.S. 37:918 intends to adopt rules to establish standards for nursing education programs whose administrative control is located in another state offering programs, courses, and/or clinical experience in Louisiana.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLVII. Nurses

Subpart 2. Registered Nurses

Chapter 35. Nursing Educational Programs

§3536. Approval for Nursing Education Programs whose Administrative Control is Located in Another State Offering Programs, Courses, and/or Clinical Experience in Louisiana

A. Program of Studies. To receive approval by the Board of Nursing for a total program of studies offered in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

1. New programs follow the procedure to establish new programs as specified in LAC 46:XLVII.3533.A-E.

2. Programs must present evidence of compliance with all standards and requirements contained in LAC 46:XLVII.Chapter 35. Upon full approval, the program will be reviewed under the requirements for continued approval, as specified in LAC 46:XLVII:3535.A-K.

B. Course/Clinical Offerings. Out-of-state nursing programs offering courses/clinical experiences in Louisiana are expected to maintain the standards required of Louisiana-based programs. The board reserves the right to withdraw the approval of such offerings if adherence to these standards is not maintained. To receive approval by the Board of Nursing for course/clinical offerings in Louisiana by nursing programs whose administrative control is located in another state, the following criteria shall be met:

1. Approval/Accreditation Requirements. Evidence of approval/accreditation of the nursing program shall be submitted to the Board of Nursing as stipulated below:

a. The nursing program sponsoring the offering shall hold current approval by the Board of Nursing and/or other appropriate approval bodies in the state in which the parent institution is located.

b. Regional accreditation shall be held by the parent institution.

c. National League for Nursing accreditation is recommended.

d. The nursing program sponsoring the course/clinical offering must provide the Board of Nursing with the following materials for review at least four months prior to the scheduled initiation of the offering:

i. a letter of request for approval to provide the course/clinical offering which indicates the time-frame during which the offering will be conducted, the clinical agency(ies) and the clinical unit(s) to be utilized;

ii. a copy of the philosophy/mission, purpose(s), conceptual/organizational framework, program objectives, and program outcomes;

iii. a curriculum pattern which lists all courses required within the program of study;

iv. a course syllabus for the course/clinical experience(s) to be offered which specifies the related objectives of the offering;

v. current school catalog.

e. Request for preceptorship learning experiences shall include evidence of compliance with LAC 46:XLVII.3541.A-J.

2. Coordination with Other Nursing Programs

a. Evidence of meetings or communications with representatives of the clinical agency, the out-of-state nursing program and all Louisiana nursing programs that hold current contractual agreements with the agency shall be submitted to the board.

b. Meetings or communications of respective representatives shall occur minimally on an annual basis, or on a semester basis as deemed necessary by any involved party.

c. A "Clinical Facility Survey" form shall be submitted by the program.

3. Students

a. All students shall be in good academic standing in the nursing program.

b. Students who hold licensure in any health care discipline and who have disciplinary action against their license, and/or students who have felony convictions shall petition the board for review and action regarding their approval to practice nursing in Louisiana.

c. Students who are licensed as registered nurses in another state shall obtain Louisiana registered nurse licensure.

d. Graduate performance on the licensure examination (NCLEX-RN) shall be maintained at an 80 percent or higher pass rate for each January-December calendar year. Upon initial request for approval, NCLEX-RN performance by graduates for the past two years shall be submitted to the board.

4. Faculty

a. Each faculty member shall hold a current license to practice as a registered nurse in Louisiana.

b. Each faculty member shall hold a minimum of a bachelor of science in nursing degree and a master of science in nursing, or an equivalent master's degree approved by the Board of Nursing, and a minimum of two years of nursing practice in a clinical setting.

c. Faculty shall be present for student supervision while students are assigned to clinical areas unless the students are engaged in a board-approved preceptorship experience.

d. The faculty to student ratio shall not exceed one to ten (1:10) for clinical instruction unless the students are engaged in a board-approved preceptorship experience which permits a maximum of one to twelve (1:12) faculty to student ratio.

e. A "Faculty Qualification" form shall be submitted for each faculty member providing instruction within the state of Louisiana.

5. Approval

a. Course/clinical offerings by out-of-state nursing programs may be approved for a period of two years, at which time program representatives may petition for renewal of approval for each additional two-year periods.

b. A written report which provides updated and current data relevant to the program shall be submitted as a component of the petition for renewal as specified in §3536.B.1-4.

c. Failure to comply with the requirements established by the Louisiana State Board of Nursing shall result in the immediate withdrawal of the board's approval of course/clinical offerings.

6. Post Approval. A copy of the executed contractual agreement between the academic institution and the clinical facility shall be submitted to the board prior to the initiation of the offering(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 19:

Comments concerning the proposed rules may be directed in writing to Barbara L. Morvant, MN, RN, Ex. Dir., LSBN 150 Baronne St. Suite 912, New Orleans, LA 70112.

Barbara L. Morvant, RN
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: NURSING EDUCATIONAL PROGRAMS**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated increased cost to the board for approval of nursing education programs. Most approval requests will be for courses and/or clinical which will not require a site visit. The number of requests is anticipated to be small.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no major impact on the revenue to the board or local governments. The fee for a site visit is \$200. There is one site visit related to the proposed rule scheduled for 1993-1994. There are no other site visits anticipated at this time.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Out-of-state programs will be impacted in that they will need to make application for approval and submit evidence of compliance with the proposed standards. These rules are intended to assure that out-of-state programs whose students will be rendering nursing care to Louisiana citizens meet the standards of the board and are consistent with the requirements of the Louisiana schools. Positive outcome is that the students from these programs will be granted legal authority to practice in Louisiana while enrolled in an approved program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is presumed that these rules will have no negative impact on competition and employment. Out-of-state programs will be required to meet the same standards as all programs. Approval of out-of-state programs to offer clinical experiences in Louisiana will increase access by Louisiana citizens to nursing education.

Barbara L. Morvant, RN
Executive Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Cholesterol Screening

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, proposes to adopt the following rule in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Act 136 of the 1991 Regular Session of the Louisiana Legislature enacted Part XXXVIII of Chapter 5 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1299.181 relative to mobile cholesterol screening services to the public. The measure provides for the approval of all cholesterol screening units which operate in the state of

Louisiana and empowers the department to adopt rules and regulations necessary to carry out the provisions of the Act.

PROPOSED RULE

The Department of Health and Hospitals, Bureau of Health Services Financing, shall approve mobile cholesterol screening units which comply with the following provisions of Act 136 of 1991 Regular Session and the Clinical Laboratory Improvement Amendments of 1988 and the associated federal regulations as contained in the Code of Federal Regulations.

Definitions

1. *Cholesterol Screening* — determining the cholesterol level present in a person's blood by analyzing a drop of blood taken from him by means of a fingerstick sample.

2. *Department* — the Department of Health and Hospitals.

3. *Fingerstick Samples* — a quantity of blood taken from a person by sticking his finger with a needle of lancet.

4. *Mobile Cholesterol Screening Unit* — a unit or operation that travels from one location to another and provides cholesterol screening services to the public without the necessity of a referral from a licensed physician.

5. *Secretary* — the secretary of the Department of Health and Hospitals.

6. *CLIA'88* — Clinical Laboratory Improvement Amendments of 1988 which were enacted by the United States Congress in 1988 to assure quality laboratory testing at all sites of performance. The standards for the implementation of CLIA'88 are published in the Code of Federal Regulations at 42 CFR 493, et seq.

7. *HCFCA* — the Health Care Financing Administration.

Standards

1. The cholesterol screening services shall be organized and provided under the general supervision of a licensed clinical laboratory or a licensed physician who is qualified, by education and training, to conduct and interpret the results of the tests offered, and who is knowledgeable regarding quality control, calibration of the instruments, and proper maintenance of the equipment. The physician may be employed or serve as a consultant to the unit.

2. Systems and instruments used for the testing shall be properly calibrated and periodically checked for calibration by a person qualified and trained to do so.

3. The testing shall be performed only by personnel properly qualified, by education and training, in the drawing of blood samples, proper sterile techniques, and the correct operation of the testing instruments.

4.a. No person administering the tests shall attempt to interpret the clinical significance of the test results, render or express a medical diagnosis or in any way suggest the necessity or appropriateness or lack of necessity or appropriateness of any form of treatment.

b. The provisions of R.S. 40:1299.183(4)(a) shall not apply to a licensed physician or other qualified health care professional.

5. Persons tested shall be advised of the necessity of appropriate follow-up with a medical professional should the screening test warrant such, as outlined in the national cholesterol screening program guidelines or equal standards.

Penalty

Whoever violates the provisions of the Part shall be guilty of a misdemeanor and upon conviction, shall be fined not more than \$500, imprisoned for not more than six months, or both. For each subsequent offense, the violator shall be fined not more than \$1,000, imprisoned not more than one year, or both.

The Bureau of Health Services Financing shall follow the standards developed for the implementation of CLIA'88 and published at 42 CFR 493.1 through 493.1780 for the approval of mobile cholesterol screening units.

Act 136 specifically requires mobile cholesterol screening units operation in Louisiana to be under the supervision of a licensed physician or licensed clinical laboratory. If the director of the clinical consultant is not a licensed physician in Louisiana, the laboratory must provide for the services of a physician since Louisiana does not have statutes relative to licensure of clinical laboratories.

Approval of a mobile cholesterol screening unit by the Department of Health and Hospitals shall be contingent on the laboratory possessing a certificate of registration, certificate of accreditation or a certificate issued by HCFA or an agency approved by HCFA.

The department will not inspect a laboratory for compliance with state regulations provided the laboratory was inspected by HCFA or an agency approved by HCFA.

The laboratory shall provide the department with the following documentation:

1. a copy of the CLIA certificate, certificate of registration or certificate of accreditation;
2. a biannual schedule of testing sites, to include dates and times of testing;
3. other information as requested by the Department for implementation of the rule.

Implementation of this proposed rule is dependent upon approval by the Health Care Financing Administration (HCFA). Disapproval of this waiver by HCFA will automatically cancel the provisions of this proposed rule and current policy will remain in effect. Interested persons may submit written comments to 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 is scheduled for Friday, June 25, 1993 at 9:30 a.m. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: MOBILE CHOLESTEROL SCREENING UNITS

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to increase state expenditures by \$75 in SFY 1993-94, but no costs are anticipated for SFY 1994-95 and 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will increase federal revenue collections by \$75 in SFY 1993-94 but no increases are anticipated for SFY 1994-95 and 1995-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The welfare of the general public will be further protected through the implementation of this proposed rule to ensure the safe and accurate cholesterol testing by mobile screening units. Entities operating mobile cholesterol screening units will not experience any additional cost as a consequence of this proposed rule. The Clinical Laboratory Improvement Amendments of 1988 already mandate that such entities obtain a certificate from the Health Care Financing Administration.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no known impact on competition and 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

Home and Community Based Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is proposing to adopt the following rule under the Administrative Procedure Act, R.S. 49:950 et seq.

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 beneficiaries are also eligible for all services available under the state plan.

Louisiana currently has three 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 (ICF/MR). The personal care attendant waiver serves a maximum of 20 individuals who have lost motor or sensory capabilities and require only a personal care attendant to avoid care in a nursing facility.

The rule establishes a Home and Community Based Services waiver known as home care for the elderly. The waiver will be implemented upon approval by HCFA. Under this waiver, a maximum of 222 individuals ages 65 or older who meet the medical and financial requirements for nursing facility care will be served. The maximum income available to the individual is set at three times the Supplemental Security Income (SSI) amount. Personal needs allowance for waiver applicants is also three times the SSI amount.

This emergency rule is necessary to ensure federal funding for home and community based services for this population group. The persons served under this waiver must meet the medical and financial requirements for nursing facility care; therefore, it is anticipated that implementation of this program will not create additional expenditures. An emergency rule was adopted on this measure effective April 1, 1993, and was published in the April 20, 1993, issue of the *Louisiana Register*.

PROPOSED RULE

The Bureau of Health Services Financing shall implement the Home Care for the Elderly Waiver Program. Services are provided under the provisions of the approved waiver agreement between the Health Care Financing Administration and Medicaid of Louisiana.

Disapproval of this waiver by HCFA will automatically cancel the provisions of this emergency rule and current policy will remain in effect. Interested persons may submit written comments to John Futrell, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, Louisiana 70821-9030. He is the person responsible for responding to inquiries regarding this proposed rule. A public hearing is scheduled for Friday, June 25, 1993 at 9:30 a.m. At that time all interested parties will be afforded an opportunity to submit data, views or arguments, orally or in writing at said hearing. Copies of this proposed rule and all other Medicaid rules and regulations are available at parish Medicaid offices for review by interested parties.

J. Christopher Pilley
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: HOME AND COMMUNITY BASED SERVICES

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule is projected to decrease state expenditures by \$367,210 in SFY 1993-94, \$148,037 in SFY 1994-95 and \$132,932 in SFY 1995-96.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will decrease federal revenue collections by \$1,021,106 in SFY 1993-94, \$387,939 in SFY 1994-95 and \$345,738 in SFY 1995-96.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
Persons in the community who qualify for institutional care will benefit by becoming eligible for Medicaid services under the Louisiana State Plan in addition to receiving services under this waiver program.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This proposed rule will have no known impact on competition and employment.

John Futrell
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Natural Resources Office of Management and Finance

Rate Schedule for Copies of Computerized Public Records (LAC 43:III.101)

In accordance with LAC 4:I.301.D, "Uniform Fee Schedule for Copies of Public Records," the Department of Natural Resources gives notice of its intent to amend its rate schedule for copies of computerized public records as contained in LAC 43:III.101.

The proposed amended rule addresses minor changes to existing rates for copies of computerized reports and files, and includes new wording added to reflect on-line access to public records.

Title 43 NATURAL RESOURCES Part III. Office of Management and Finance

Chapter 1. Information Processing Section §101. Rate Schedule for Copies of Computerized Public Records

In accordance with the rule adopted by the Division of Administration pertaining to the uniform fee schedule for copies of public records, the Department of Natural Resources (DNR) has adopted a rule which institutes a schedule of rates

to recover its costs in providing copies of computerized public records to non-governmental, private sector bodies. This schedule includes rates for those records provided on computer magnetic tape, those provided on computer printouts, and those provided via terminals.

A. The rates are as follows:

1. Output from the DNR Information Processing Center

a. Job Set Up/Take Down. Each request received from the private sector for a copy of computerized records requires the involvement of production control technicians who must set up the job, submit the job for processing, review the output according to quality control standards, and prepare the output for transmittal to the requestor. A flat rate of \$20 per job is charged.

b. Systems Analyst and Programmer Involvement. Certain jobs require the involvement of a systems analyst and/or a computer programmer to customize existing "utility" programs to meet the requestor's requirements. Each hour worked by an analyst or programmer is charged at a rate of \$50.

c. CPU-Related Resources. The selection, extraction, processing and sorting of data consume a combination of DNR computer resources, including CPU usage, memory usage, I/O channels, disk access, and tape access. The combined usage of these resources is logged by DNR in units of Standard Unit of Processing (SUP) hour. Each SUP hour is charged at a rate of \$450.

d. Printing. All printing is done on a laser printer producing 8 1/2" x 11" pages. Each image is charged at a rate of \$.10.

e. Magnetic Tapes. Users requesting records on magnetic tape are encouraged to supply their own 2,400 foot tapes. Those not doing so are charged \$25 for each tape provided by DNR.

f. Postage. Charged on an actual cost basis.

2. Output from DNR Computer Terminals. Department of Natural Resources has several computer terminals which are available to the public to access public records. These terminals are located in the Well Files area in the Natural Resources Building in Baton Rouge and in the Conservation District Offices. Currently, no charge is imposed to use these terminals, although there is a \$.25 charge for a copy of any terminal screen which is printed on the terminal printer.

3. Output from non-DNR Computer Terminals. DNR allows private sector individuals and organizations to dial-up the DNR computer and access public records. Each user of this service must pay a one-time set-up charge of \$150, with an annual renewal charge of \$100. Each hour of connect time is charged at a rate of \$49.80 per hour, plus telephone charges for users outside of Baton Rouge. Transaction-based access is provided at no additional charge, while table-based query-oriented access is provided at a uniform cost based on SUP hour usage. Technical support, if required, is provided at a charge of \$50 per hour. Documentation is provided at a charge of \$10 per copy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:241.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, LR 11:704 (July 1985), amended LR 19:

A public hearing will be held on June 25, 1993, at 1:30 p.m. in the Land and Natural Resources Building, 13th Floor Library, 625 N. Fourth Street, Baton Rouge, LA. Interested parties are invited to attend and submit oral comments on the proposed rule change.

All interested parties are invited to submit written comments on the proposed rule change. Such comments must be submitted no later than June 25, 1993, at 4:30 p.m. to Robert D. Harper, Undersecretary, Department of Natural Resources, Box 94396, Baton Rouge, LA 70804-9396, or to 625 N. Fourth Street, 13th Floor, Baton Rouge, LA 70802. Persons submitting comments should reference this proposed amended rule change in their comments.

Robert D. Harper
Undersecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: RATE SCHEDULE FOR COPIES OF
COMPUTERIZED PUBLIC RECORDS**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Costs are estimated to be \$109,926 in FY 93-94 for the Department of Natural Resources, but a net savings will result from anticipated revenues of \$139,560.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

For state government units, an increase in revenues totaling \$139,560 is estimated for FY 93-94. There will be no effect on local government units.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

The only non-governmental groups which would be effected would be those that request copies of computerized public records from the department. This rule does not mandate any usage of DNR services; access to these records is voluntary. The cost of each such request will vary based on the type and volume of records requested, the computer resources used to satisfy the request, the amount of programmer resources required, etc. While it is difficult to predict how many requests might be submitted and hence what the financial impact might be, the current volume suggests that the total costs to these non-governmental groups would be \$139,560 in Fiscal Year 1993-94.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The department currently provides computerized public records, on request, in the form of paper and magnetic tape. Under this amended rule, this same service would continue, but with the addition of on-line service. No impact on competition and employment in the private sector is anticipated. The availability of accurate, detailed computerized energy information to the public and industry relates to more cost-effective exploration, more secondary and enhanced recovery, and ultimately more production.

Robert D. Harper
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

Department of Revenue and Taxation Office of the Secretary

Electronic Funds Transfer (LAC 61:I.4910)

As mandated by Act 172 of the 1992 Regular Session and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is given that the Department of Revenue and Taxation proposes to adopt the following rule concerning the electronic funds transfer of tax payments.

These proposed regulations establish the department's responsibility to notify taxpayers required to electronically transfer tax payments, taxes required to be electronically transferred, procedures for making payments, payment alternatives, proof of timely payment, and penalties for failure to timely transfer funds electronically.

The department plans to gradually phase in the electronic funds transfer requirement over a two-year period using an initial payment threshold of \$100,000 and targeting specific taxes. Taxpayers will receive written notification and instructions at least 90 days prior to the effective date.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue and Taxation

Chapter 49. Tax Collection

§4910. Electronic Funds Transfer

A. Taxpayers whose payments in connection with the filing of any return or report, including declaration payments, during the prior 12-month period average \$100,000 or more will be required to remit the respective tax or taxes electronically or by other immediately investible funds, as required by R.S. 47:1519, effective as follows:

1. gasoline dealers—tax periods beginning September 1, 1993;
2. severance taxes—tax periods beginning September 1, 1993;
3. corporation income and franchise taxes—tax periods ending December 31, 1993;
4. sales and withholding taxes - tax periods beginning March 1, 1994;
5. all other business taxes administered by the Louisiana Department of Revenue and Taxation will be effective with tax periods beginning January 1, 1994.

Effective July 1, 1995, the electronic payments or payment by other immediately investible funds will be required of all filers of the above described taxes whose payments during the previous 12-month period averaged \$50,000 or more.

Any taxpayer whose tax payments for a particular tax averages less than \$50,000 per payment may voluntarily remit amounts due by electronic funds transfer with the approval of the secretary. Once a taxpayer requests to electronically transfer tax payments he must continue to do so for a period of at least 12 months.

B. Definitions. For the purposes of this Section, the following terms are defined:

Automated Clearinghouse Credit—an automated clearinghouse transaction in which the taxpayer through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction shall be paid by the person originating the credit.

Automated Clearinghouse Debit—an automated clearinghouse transaction in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the taxpayer's bank account and crediting the state's bank account for the amount of tax. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

Electronic Funds Transfer—any transfer of funds other than a transaction originated by check, draft, or similar paper instrument, that is initiated electronically so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfer shall be accomplished by an automated clearinghouse debit or automated clearinghouse credit. Federal Reserve Wire Transfers (FedWire) may be used only in emergency situations and with prior approval from the department.

FedWire Transfer—any transaction originated by a person and utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers may be made by FedWire only if payment cannot, for good cause, be made by automated clearinghouse debit or credit and the use of FedWire has the prior approval of the department. Banking costs incurred for the FedWire transaction shall be paid by the person originating the transaction.

Other Immediately Investible Funds—cash, money orders, and cashier's checks.

Payment—any amount paid to the Department of Revenue and Taxation representing a tax, fee, interest, penalty, or other amount.

B. Taxes Required to be Electronically Transferred. Tax payments required to be electronically transferred may include corporation income and franchise taxes; income tax withholding; sales and use taxes; severance taxes; excise taxes; and any other tax or fee administered or collected by the Department of Revenue and Taxation. A separate transfer shall be made for each return.

C. Taxpayer Notification

1. Those taxpayers required to electronically transfer tax payments will be notified in writing by the department of the electronic funds transfer data format and procedures at least 90 days prior to the required electronic funds transfer effective date. The taxpayer will be given payment method options (ACH debit, ACH credit, or other immediately investible funds) from which to select. Depending on the method selected, the taxpayer will be required to submit specific information needed to process electronic payments. The taxpayer must use the same payment method for a minimum of one year. After one year, the taxpayer may change payment options by requesting to do so at least 60 days before the effective date. Once a taxpayer is required to remit taxes

by electronic funds transfer, he must continue to do so until notified otherwise by the department.

2. Taxpayer accounts will be reviewed annually and those taxpayers who meet the criteria for electronic funds transfer will be notified of their new payment requirements. Taxpayers whose average payments have decreased below the threshold will be allowed the option of discontinuing electronic funds transfer. Taxpayers who continue to meet the electronic funds transfer criteria will not be notified.

D. Failure to Timely Transfer Funds Electronically

1. Remittances transmitted electronically are considered to have been made on the date that the remittance is added to the state's bank account. Failure to make such payment or remittance in immediately available funds in a timely manner, or failure to provide such evidence of payment or remittance in a timely manner, shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law for delinquent or deficient tax, fee or obligation payments. If payment is timely made in other than immediately available funds, penalty, interest, and loss of applicable discount shall be added to the amount due from the due date of the tax fee or obligation payment to the date that funds from the tax, fee, or obligation payment subsequently becomes available to the state.

2. When the statutory delinquent date falls on a Saturday, Sunday, or Federal Reserve holiday, the payments must be electronically transferred in order to be received by the last business day prior to the delinquent date.

3. If a taxpayer has made a good faith attempt and exercises due diligence in initiating a payment under the provisions of R.S. 47:1519 and this rule, but because of unexpected problems arising at financial institutions, Federal Reserve facilities, the automated clearinghouse system, or state agencies, the payment is not timely received, the delinquent penalty may be waived as provided by R.S. 47:1603. Before a waiver will be considered, the taxpayer must furnish the department with documentation proving that due diligence was exercised and that the delay was clearly beyond his control.

4. The filing of a tax return or report is to be made separately from the electronic transmission of the remittance. Failure to timely file a tax return or report shall subject the affected taxpayer or obligee to penalty, interest, and loss of applicable discount, as provided by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1519.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Office of the Secretary, LR 19:

Interested persons may submit their written comments on the proposed rule to: Linda Denney, Director, Severance Tax Division, Department of Revenue and Taxation, Box 3863, Baton Rouge, LA 70821. Comments will be accepted through the close of business on Monday, June 28, 1993 at 4:30 p.m.

Ralph Slaughter
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: ELECTRONIC FUNDS TRANSFER**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation costs to the Department of Revenue and Taxation will consist of initial start-up costs and annual recurring costs. Because the program will be phased in over a two-year period by gradually lowering the payment threshold and adding the various taxes, initial costs will be incurred during the first three years. The largest initial cost to the department will be the data-processing design and programming costs needed to match payments with tax returns. It is estimated that implementation costs to the state will be \$106,590 for FY 6-94; \$102,797 for FY 6-95; \$103,884 for FY 6-96.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is estimated that the state will earn interest for four additional days on the tax payments electronically transferred. An annual rate of 3.5 percent (the current earnings rate for short-term government securities) was used to calculate the interest earnings. Because the program will be gradually phased in, the tax payments required to be electronically transferred will gradually increase for the next three years. Interest earnings are estimated to be \$470,682 for FY 6-94, \$812,899 for FY 6-95, \$957,704 for FY 6-96, and approximately \$1 million per year for subsequent years.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Taxpayers required to electronically transfer tax payments will incur a small transaction charge (\$1.50-\$2) if they elect to use the ACH credit method. The department will incur the transaction cost if they elect to use the ACH debit method.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Ralph Slaughter
Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary**

**Child Care Assistance Program—Definition of Provider;
Payments (LAC 67:I.103-104)**

The Department of Social Services, Office of the Secretary proposes to adopt the following rule in the Child Care and Development Block Grant Program effective August 20, 1993.

In §103, only items A and B are new material; the other items in that section have only been reformatted.

Title 67

DEPARTMENT OF SOCIAL SERVICES

Part I. Office of the Secretary

Chapter 1. Child Care Assistance Program

§103. Child Care Providers

A. Provider is defined as an individual operating a Family Day Care Home, providing in-home child care, or serving in an administrative capacity with a Class A child care center, i.e. owner, director, officer of the board, etc.

B. Under no circumstances can the following individuals be considered eligible child care providers:

1. members of the child's household, and
2. the child's parent or guardian, regardless of whether that individual lives with the child.

C. The parent or guardian is assured freedom of choice in selecting from a variety of child care categories, including center-based child care, family child care, and in-home child care. The parent or guardian will be afforded the maximum freedom to select the child care provider of his choice.

D. Under the Child Care and Development Block Grant Program, relatives providing child care must be at least 18 years of age and must be providing child care to only grandchildren, nieces, and/or nephews. The use of funds for sectarian worship or instruction, or the purchase of land or buildings, is prohibited.

E. Purchase of service contracts using Child Care and Development Block Grant funds will be used to develop or enhance resources necessary to meet the needs of Special Needs Children, who require care for which specialized training, equipment or facilities are essential. Contracts could be used for developing licensed Class A centers or upgrading existing programs in such centers to handle crack/HIV/severely handicapped or emotionally disturbed infants and young children. Contracts would be designed to preserve parental freedom of choice in selecting providers.

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 18:1269 (November 1992), LR 19:

§104. Payment

* * *

E. Payments can only be made for child care that is required in order for the child's parent(s) or guardian(s) to participate in employment, job training or educational activities that meet the following criteria:

1. a job which pays at least the federal minimum hourly wage, or
2. training or educational programs that will potentially result in employment earning the federal minimum hourly wage.

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, amended LR 18:1269 November 1992, LR 19:

Interested persons may submit written comments by June 24, 1993, to the following address: William Ludwig, Deputy Secretary, Department of Social Services, Box 3776, Baton Rouge, LA, 70821. Mr. Ludwig is the person responsible for

responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on June 24, 1993, 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—DEFINITION
OF PROVIDERS; PAYMENTS**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no fiscal impact resulting from this proposed rule, as it simply limits the definition of eligible providers, and specifies conditions under which payments can be made for child care services under the Child Care and Development Block Grant.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
In federal fiscal year 92/93, the child Care and Development Block Grant allocated to Louisiana \$23,623,963 (of which 75 percent, or \$17,717,972, can be expended by the Child Care Assistance Program). It is anticipated that allocations in future years will be slightly higher. This action will not change the total funds allocated to Louisiana. Parents, guardians, and members of the households of children in need of child care services will not be eligible to receive payment for providing such services, and parents or guardians must be involved in employment paying the federal minimum wage, or training that will lead to employment paying the federal minimum wage. Funds will therefore be expended on services to providers who are eligible to receive payment, and for services to parents who are involved in the defined activities.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no impact on competition or employment.

William Ludwig
Deputy Secretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Social Services
Office of the Secretary**

Class "A" Minimum Standards (LAC 48:I.Chapter 53)

The Department of Social Services, Office of the Secretary, Bureau of Licensing, proposes to amend the Louisiana

Administrative Code, Title 48, Part I, Subpart 3, Licensing and Certification.

This rule is mandated by R.S. 46:1401-1424.

TITLE 48

Public Health—General

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

§5301. Purpose

It is the intent of the legislature to protect the health, safety, and well-being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well-being of children, to insure maintenance of these standards, and to regulate conditions in these facilities through a program of licensing. It shall be the policy of the state to insure protection of all individuals under care in child care facilities and placement agencies and to encourage and assist in the improvement of programs. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate. This Chapter shall not give the Department of Social Services jurisdiction or authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of any curriculum or instruction of a school or facility sponsored by a church or religious organization so long as the civil and human rights of the clients and residents are not violated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5303. Authority

A. Legislative Provisions

1. The State of Louisiana, Department of Social Services, is charged with responsibility for developing and publishing standards for the licensing of child day care centers.

2. The licensing authority of the Department of Social Services is established by R.S. 46:1401-1424 (Act 367 of 1956 and amended by Act 152 of 1962, Act 241 of 1968, Act 290 of 1976, Act 678 of 1977, Act 409 of 1978, and Act 286 of 1985) making mandatory the licensing of all child care facilities and child placing agencies, including child day care centers. A child "day care center" is defined as any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision and guidance of seven or more children under the age of 18 years not related to the care giver and unaccompanied by parent or guardian, on a regular basis for at least 20 hours in a continuous seven-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time day care center. A day care center that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

B. Penalties

1. All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, shall be licensed.

2. The law provides a penalty for operation of a center without a valid license. The penalty for operation without a valid license is a fine of "not less than seventy-five dollars nor more than two-hundred fifty dollars for each day" of operation without a license.

C. Inspections

1. According to law, it shall be the duty of the Department of Social Services "through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice all child care facilities and child-placing agencies subject to the provisions of the Chapter" (R.S. 46:1401 through 1424).

2. Whenever the department is advised or has reason to believe that any person or agency or organization is operating a non-exempt child care facility without a license or provisional license, the department shall make an investigation to ascertain the facts.

D. The Louisiana Advisory Committee

1. The Louisiana Advisory Committee on Child Care Facilities and Child Placing Agencies was created by Act 286 of 1985 to serve two functions:

a. to develop minimum standards for licensure of Class "A" facilities and to review all standards, rules, and regulations for Class "A" facilities at least every three years;

b. to advise and consult with the Department of Social Services in matters pertaining to decisions to revoke or refuse a Class "A" license.

2. The committee is composed of 20 members, appointed by the governor, including provider and consumer representation from all types of child care services and the education and professional community.

E. Waivers. The secretary of the Department of Social Services, in specific instances, may waive compliance with a minimum standard if it is determined that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and/or children is not imperiled. If it is determined that the facility or agency is meeting or exceeding the intent of a standard or regulation, the standard or regulation may be deemed to be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5305. Standards

A. General Requirements

1. Governing Body (Applicable to Non-profit Organizations Only)

a. There shall be a responsible governing body which shall be one of the following:

i. a board of local citizens elected or appointed for that purpose; or

ii. board or committee comprised of members from a religious, charitable, educational organization, or a public

authority, etc.

b. The governing body shall exercise sufficient authority so that it can be held reasonably responsible for the center's practice.

c. The governing body shall have the power to appoint and to dismiss the director of the center.

d. The governing body or its chief executive officer shall have clearly defined duties and responsibilities of the director and determine who has authority to employ and dismiss personnel.

e. The governing body shall maintain records regarding qualifications and references of the director.

f. Non-profit agencies shall have IRS determination on file.

2. Release of Children. Arrangements for the child's return to the parent shall not include third parties or other child care facilities unless written agreement between the day care facility and the parent is on file with the center.

3. Insurance. The child care facility must have liability insurance. Copy of current liability insurance for center and vehicle (if transportation is provided) must be on file in the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5307. Definitions

Clock Hour—being involved in a learning situation for 60 minutes.

Department—the Department of Social Services of the State of Louisiana.

Director—the person who is responsible for the on site, daily implementation and supervision of the facility operation. The director may designate (in writing) program authority to a head teacher, assistant director, or other qualified employee.

Discipline—the ongoing process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner.

Full Time—eight hours per day.

Group (or Unit)—the number of children who share a common indoor play space and relate to one primary staff care giver (who may be assisted by others) on a consistent, or daily basis.

Owner or Provider—a public or private organization or individual who for profit or not-for-profit delivers day care service for children, and who may employ a person to be full-time director responsible for the center's operation or may retain that responsibility.

Part Time—a minimum of four hours per day.

Shall or Must—mandatory.

Should—urged, advised or may.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5309. Procedures

A. Initial Application. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services. To do so, the following steps should be followed:

1. Carefully check all local zoning and building ordinances in the area where you are planning to locate.

2. Secure an application form issued by: Department of Social Services, Bureau of Licensing, Box 3078, Baton Rouge, LA 70821-3078; phone: (504) 922-0015.

3. The completed application must indicate Class "A" license. Any center applying for state or federal funding shall apply for Class "A" license. Licensure fees are required to be paid by all centers. A Class "A" license may not be changed to a Class "B" license if revocation procedures are pending.

4. After the center's location has been established, complete and return the application form. It is necessary to contact the following offices prior to building or renovating a facility:

- a. Office of Public Health, Sanitarian Services;
- b. Office of State Fire Marshal;
- c. Office of City Fire Department (if applicable);
- d. Zoning Department (if applicable);
- e. City or Parish Building Permit Office.

5. After the application has been received by the department, a request will be made to the Office of State Fire Marshal, Office of City Fire Department (if applicable), Office of Public Health, and any known required local agencies to make an inspection of the location, as per their standards. It is the applicant's responsibility to obtain these inspections and approvals. A surveyor will visit the center to conduct a licensing survey.

6. A license will be issued on an initial application when the following items have been met and verification is received by the Bureau of Licensing:

- a. fire approval (state and/or city);
- b. health approval;
- c. zoning (if applicable);
- d. full licensure fee;
- e. licensure survey verifying substantial compliance;
- f. three references on director.

7. When a center changes location, it is considered a new operation and must submit a new application and fee for licensure. All items in Paragraph 6, except references, must be re-submitted.

8. When a facility changes ownership, a new application and fee is required. All approvals in Paragraph 6 must be current.

9. All new construction or renovation of a facility requires approval from agencies listed in Paragraph 4.

10. A license is valid for the period for which it is issued but may be revoked if the center falls below minimum standards.

11. The department is authorized to determine the period during which the license shall be effective. A license is not transferable to another person or location.

12. If a director or member of his immediate family has had a previous license revoked or refused, upon re-application, applicant shall provide satisfactory evidence that the reason for such revocation no longer exists.

B. Fees

1. Initial application fee of \$25 is required to be submitted with all initial applications. This fee will be applied toward the license fee when center is licensed. This fee is to be paid by *all* initial providers. *All* fees are non-refundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. License fee schedules (based on capacity) are listed below:

15 or fewer:	\$ 25	51 - 100:	\$175
16 - 50:	\$100	101 or more:	\$250

3. Other licensure fees:

a. \$25 replacement fee for any facility replacing a license when changes are requested by the facility, i.e. change in capacity, name change, age range change (No processing charge when request coincides with regular renewal of license.);

b. \$5 processing fee for issuing a duplicate facility license with no changes.

C. Relicensing. The relicensing survey is similar to the original licensing survey. The director of the center will have an opportunity to review the survey deficiencies (if any) before it is submitted to the Department of Social Services.

1. A license is issued for a period of one year. Before expiration of the license, re-inspections by the Office of Public Health, Sanitarian Services; Office of State Fire Marshal; and City Fire (if applicable) shall be required.

2. If the survey reveals that the center is not substantially meeting minimum requirements, a recommendation will be made that a new license not be issued.

3. The Department of Social Services shall be notified before changes are made which might have an effect upon the license (for example, changes in age range of children served, changes in space).

D. Denial, Revocation or Non-renewal of License

1. An application for a license may be denied for any of the following reasons:

a. failure to meet any of the minimum standards prescribed by the Department of Social Services under R.S. 46:1401-1424;

b. conviction of a felony, as shown by a certified copy of the record of the court of conviction, of the applicant;

i. or if the applicant is a firm or corporation, of any of its members or officers;

ii. or if the person designated to manage or supervise the child care center;

c. if supervisor of the child care center is not reputable;

d. if the director or a member of the staff is temperamentally or otherwise unsuited for the care of the children in the child care center.

2. A license may be revoked, or renewal thereof denied, for any of the following reasons:

a. cruelty or indifference to the welfare of the children;

b. violation of any provision of R.S. 46:1401-1424 or of the minimum standards, rules, regulations, or orders of the Department of Social Services promulgated thereunder;

c. disapproval from any agency whose approval is required for licensure;

d. non-payment of licensure fee;

e. receipt of any fee payment by a non sufficient funds

(NSF) check or check with endorsement canceled.

f. Any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment may result in revocation, denial or non-renewal of the license if the owner is responsible or if the employee who is responsible remains in the employment of the facility.

E. Appeal Procedure

1. If the license is refused or revoked because the center does not meet minimum requirements for licensure, the procedure is as follows:

a. The Department of Social Services, by certified letter, shall advise the day care center of the reasons for refusal or revocation, and its right of appeal.

b. The day care director/owner may appeal this decision by submitting a written request with the reasons to the secretary of the Department of Social Services. Write to Department of Social Services, Appeals Section, Box 2994, Baton Rouge, LA 70821-9118. This written request must be post-marked within 30 days of the director/owner's receipt of the above notification in Subparagraph a.

c. The Appeals Bureau of the Department of Social Services shall set a hearing to be held within 30 days after receipt of such a request.

d. An appeal hearing officer of the Department of Social Services shall conduct the hearing. Within 90 days after the date the appeal is filed, the Department of Social Services shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the license is refused or revoked the center shall terminate operation immediately.

e. If the center continues to operate without a license, the Department of Social Services may file suit in the district court in the parish in which the facility is located for injunctive relief.

F. Records

1. Personnel. There shall be on file at the center for each regularly employed and substitute member of the staff who works more than 10 days in a 12-month period, whether paid or unpaid, a record including the information listed below:

a. name, age, address, and telephone number;

b. employee's starting and termination dates;

c. name, address, and telephone number of person to contact in case of emergency;

d. health records, to include a tuberculin test and documentation of good health, signed by a physician or designee;

e. previous training, education, and work experience to include evidence that appropriate qualifications as described herein are met;

f. record of any accident resulting in personal injury while on duty;

g. job description, including duties to be performed, hours of work, and supervisor;

h. documentation, signed and dated, that at least three references have been contacted by the director/owner or designee prior to employment;

i. documentation of satisfactory criminal record check, as required by R.S. 15:587.1, or documentation that an

application for criminal record check has been made if no response has been received. A criminal records check shall be requested by the owner or provider prior to the employment of any person who will have supervisory or disciplinary authority over children;

j. documentation of valid driver's license if driving is part of employment;

k. personnel records for persons who work 10 or fewer days in a 12-month period shall include, at a minimum, an application with name, address, and Social Security number; emergency contact; time sheets; and three references. If responsibilities include supervisory or disciplinary authority over children, provisions regarding criminal records checks, described in Subparagraph i of this Paragraph, are applicable.

2. Personnel records shall be kept on file in accordance with state law.

3. There shall be on file evidence, signed by a physician or designee, of good health for any persons living in a residence part of which is also used as a day care center.

4. Children's Records. There shall be on file at the center a record for each child containing the following:

a. health record (see Appendix A);

b. general information master card (see Appendix B).

5. Children's records shall be kept on file in accordance with state law.

6. Current written reports of approval from the Department of State Fire Marshal, City Fire (if applicable), and Office of Public Health, Sanitarian Services shall be on file.

7. Occupational License (if applicable) shall be on file.

8. Certificate of Occupancy (zoning requirement, if applicable) shall be on file.

9. Current day care license shall be on display, except church affiliated centers (R.S. 46:1408) who may choose to keep the license on file.

10. A daily incident report of injuries, accidents, or unusual occurrences in behavior shall be on file.

11. A daily attendance report for children and staff shall be on file. (Time cards or time sheets are acceptable.)

G. Personnel

1. Qualifications. Director and/or head teacher, assistant director, or person with program authority:

a. must be at least 21 years of age. During the director's absence from the center a staff member must be designated to assume the director's responsibilities. This staff member must be at least 21 years of age.

b. must have at least one of the following:

i. certificate from a vocational child care training program approved by the Board of Elementary and Secondary Education, or child care education certificate program, plus one year of experience in a licensed child care center, or comparable setting, subject to approval by the department;

ii. three years of experience as a director or staff in a licensed child care center, or comparable setting, subject to approval by the department; plus six credit hours in child care, child development, or early childhood education. Thirty "clock hours" may be substituted for each three credit hours. Up to three credit hours or 15 clock hours may be in management/administration education.

iii. an associate of arts degree in child development or a closely related area, and one year of experience in a licensed center, or comparable setting, subject to approval by the department;

iv. a Child Development Associate Credential, (CDA), and one year of experience in a licensed child care center, or comparable setting, subject to approval by the department.

v. a bachelor's degree from an accredited college or university with at least 12 credit hours of child development or early childhood education, and one year of experience in a licensed child care center, or comparable setting, subject to approval by the department;

c. documentation of the above must be available at the center.

2. Qualifications. Staff must be age 18 years or older. The center may, however, include in the staff-child ratio, a person 16 or 17 years old who works under the supervision of a qualified adult staff.

3. Qualifications. All center staff: all center staff includes the director, child care staff, and any other employees of the center such as the cook, housekeeper, chauffeur, substitutes, and volunteers.

a. Each staff member must be known in the community to be of good reputation.

A previous conviction of any employee of any crime of a violent and/or sexual nature, or any violation of a criminal statute enacted for the protection of children shall constitute sufficient reason for the dismissal of the employee. A current conviction of any employee of any of these types of offenses shall constitute sufficient reason for the immediate dismissal of the employee and revocation of a license already issued, if the employee remains on the center staff. A plea of guilty to any of the above mentioned crimes shall be considered the same as a conviction.

b. Health Requirements

i. Upon offer of employment all center staff shall be required to obtain a health appraisal. Health appraisal dated within three months *prior* to offer of employment or within one month *after* date of employment is acceptable. Health appraisal, to include the following, is due every three years thereafter:

(a). health history;

(b). physical exam;

(c). TB screening at time of employment;

(d). a review of immunization status (measles, mumps, rubella, diphtheria, tetanus, and polio);

(d). a review of occupational health concerns;

(e). cytomegalovirus (CMV) and chicken pox education.

ii. The director or any center staff shall not remain at work if he has any sign of a contagious disease as stated in §5323.B.5.

iii. Each person living in a private residence, part of which is used as a day care facility, shall meet the same medical requirements as employed personnel and children enrolled.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary LR 19:

§5311. Staff Development

The provider/director shall plan and implement policies relating to staff development. The written policies shall include the following:

A. Provisions for a one day orientation to center policies and practices and health and safety procedures followed by four days of supervised working with children.

Documentation shall consist of a statement in the employee record signed by the employee and provider/director attesting to having received such orientation.

B. Providers/directors shall conduct, at a minimum, one staff training session and one staff meeting each three-month quarter. The staff meeting could include such matters as program planning, sharing new materials, and discussing center policy.

Documentation shall consist of the minutes of the training sessions and staff meetings.

C. The availability to staff of current reading materials including books, magazines, periodicals, pamphlets and journals relating to child care.

Documentation shall consist of observing that these materials are accessible in the facility to the staff;

D. Provisions for staff to attend child care workshops or conferences.

Documentation shall consist of attendance records and certificates received by staff.

E. Enrollment in and the completion of classes or training sessions when available in the subject areas of: child growth and development; child care programming and activities; health and safety practices; nutrition and good eating habits; design and use of space; working with parents; recognizing symptoms of abuse and neglect; discipline and guidance techniques; and administration and record practices. The staff shall obtain 12 clock hours of training per year approved by the Department of Social Services in addition to the training requirements outlined in Subsection B.

1. Documentation shall consist of attendance records and certificates of completion received by staff.

2. Cooks, drivers, and other ancillary personnel who do not have supervisory or disciplinary authority over children must complete at least three clock hours of training per year, excluding CPR.

3. A maximum of four hours per year for any individual staff person may be claimed for pediatric first aid or infant/child CPR. *Pediatric first aid* training, including rescue breathing and first aid for choking, shall be consistent with pediatric first aid training developed by the American Red Cross, the American Heart Association, or the National Safety Council for First Aid Training Institute, or the equivalent of one of the three.

4. Staff with baccalaureate or advanced degrees in child development or early childhood education are not required to meet in-service education requirements described in §5311.E.

F. At least two staff persons with current certification in infant/child CPR must be on the premises and accessible to the

children at all times. Fifty percent of all staff on premises and accessible to the children, must have documented pediatric first aid training.

G. Off-site activities, i.e., field trips, shall require at least one pediatric first aid trained staff to be in attendance and accessible to children at all times.

H. Wading, swimming pools, or water activities shall require at least one caregiver, volunteer, or other supervising adult to be certified in CPR and basic water safety, as specified in pediatric first aid. In addition, when children are swimming in a pool of greater than two feet deep, caregiver must also be trained in Junior Life Saving Skills.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5313. Required Child Care Staff

A. Required child care staff for centers serving 10 or fewer children (including the director's and/or staff's own preschool children):

<u>Number</u>	<u>Staff</u>
10 (if no more than two children are under age two)	1
10 (if three or more children are under age two)	2

B. Required child care staff for centers serving 11 or more children:

<u>Children</u>	<u>Number</u>	<u>Staff</u>
Infants under 12 months	6	1
One-year-olds	8	1
Two-year-olds	12	1
Three-year-olds	14	1
Four-year-olds	16	1
Five-year-olds	20	1
School age	25	1

When the center serves children of mixed ages, *excluding* children under two years, an average of the child/staff ratio may be applied.

C. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5315. Other Required Staff

A. When the number of children at the center exceeds 10 there must be an individual immediately available in case of an emergency.

B. If the number of children exceeds 42, the director shall be a full-time administrator. When the director is not on the premises, there must be an individual designated as responsible for the operation of the center. This staff shall be given the authority to respond to emergencies, inspections/inspectors and parental concerns.

C. There must be adequate provisions for cooking and housekeeping duties, except for those centers approved for catering. These duties shall not interfere with required

supervision of children or required child/staff ratios.

D. If day and night care are offered, there must be separate shifts of staff. No employee can work two consecutive shifts.

E. If the director is responsible for more than one center, there must be an individual designated as responsible for the operation of each center.

F. There shall be provisions for substitute help, if the director or any regular employee is absent from the center then staff filling in for director shall be given the authority to respond to emergencies, inspections/inspectors and parental concerns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5317. Group Size

A group means a specific number of children relating to a designated area and a designated caregiver, or caregivers, on a regular and consistent basis. An average of the group sizes may be applied on mixed age groupings as allowed under §5313.

Maximum number of children per group (specified space) or unit:

<u>Ages of Children</u>	<u>Number of Children</u>	<u>Number of Staff</u>
Infants (to 12 months)	12	2
One-year-olds	16	2
Two-year-olds	12	1
Three-year-olds	14	1
Four-year-olds	16	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5319. Plant Equipment

A. Space Required

1. Indoor Space

a. There shall be a minimum of indoor space of at least 35 square feet per child. The space shall not include toilet facilities, hallways, storage or food preparation areas, or office. Any room counted as play space must be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in play space.

b. The number of children using a room shall be based on the 35 square feet requirement; except for group activities such as film viewing, parties, and dining.

c. There shall be provision for isolating temporarily, a child having or suspected of having a communicable disease so he can be removed from the other children. Movable partitions are permissible so that the space may be used for play when not needed for isolating an ill child.

2. Outdoor Play Space

a. There shall be outdoor space adjoining the center which provides a minimum of 75 square feet for each child in the group at any one time. The minimum outdoor play space shall be available for at least one-half of the number of children in care.

b. The outdoor play space shall be enclosed in such a manner as to protect the children from traffic hazards and to prevent the children from leaving the premises without proper supervision.

c. There shall be a soft surface (including grass, loosely packed soil or sand, mats, etc.) under climbing equipment, including slides and swings. If grass is used, equipment should be moveable to prevent the surface from being worn and hard. Concrete, asphalt, packed dirt and other hard surfaces are not acceptable surfaces under playground equipment from which a child may sustain a fall. Play equipment with a play surface of four feet or higher from the ground, from which a child may sustain a fall, requires a soft surface of loose organic materials or manufactured playground mats.

B. Furnishing and Equipment

1. There shall be a working telephone at the center.

a. Appropriate emergency numbers must be posted, such as fire department, police department, and medical facility.

2. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs of the children.

a. The equipment shall be maintained in good repair;

b. shall include equipment which encourages active physical play (for example, climbing apparatus, swings, wheel-toys); and

c. equipment which encourages quiet play or activity (for example, sand, clay, crayon, paints, story and picture books, dolls, puzzles, music).

3. There shall be low, open shelves within easy reach of the children for the storage of play materials in each play area.

4. There shall be individual space for each child's clothing, such as lockers or low hooks.

5. Chairs of a suitable size and table space shall be available for each child two-years or older.

6. Individual and appropriate sleeping arrangements must be provided for each child. (State and local health requirements regarding sleeping arrangements must be met.) Each child shall be provided with a cot, mat, or crib of appropriate size, height, and material, sufficient to insure his health and safety. Each infant shall have a crib separated from all other cribs (non stackable). Mats may be used only if the area used for napping is carpeted or if the facility is centrally heated and cooled. If mats are used, they must be of adequate size and material to provide for the health and safety of the child. Each child's sleeping accommodations shall be assigned to him on a permanent basis and labeled.

7. Sheets shall be provided by either the center or the parent, unless the cots or mats are covered with vinyl or another washable surface. A sheet or blanket shall also be available for covering the child.

8. Cribs, cots, or mats shall be spaced at least 18 inches apart when in use with a head/toe arrangement so that no two children's heads are adjacent.

9. Center shall prohibit *smoking* in indoor areas of the facility, on playground while children are present, and on any center sponsored field trip.

C. Sanitary Requirements

1. The plant and equipment shall conform to state and local ordinances governing sanitation, as certified by a written statement given during the preceding 12 months by an authorized representative of the Office of Public Health, Sanitarian Services.

2. A yearly inspection and approval by the Office of Public Health, Sanitarian Services is required.

D. Fire Safety

1. A center shall in all respects meet the requirements of the fire prevention and safety authorities who have jurisdiction over it (that is, the state and/or city fire marshal). Thereafter, a yearly safety inspection and approval from the fire prevention and safety authorities is required.

2. Fire drills shall be conducted at least every 30 days. These shall be conducted at various times of the day and shall be documented. Documentation must consist of:

- a. date and time of drill;
- b. number of children and number of staff present;
- c. number of minutes to evacuate the center;
- d. problems noted during drill and corrections noted;
- e. signatures of staff present; and,
- f. must be kept on file in the center and available for review.

3. All personnel are to be trained in emergency and evacuation procedures, i.e. tornadoes, oil spill, chemical leak, train derailment, hurricane, flooding, etc., as appropriate for center's area. Documentation of training must consist of signed statements from all staff and must be kept on file in the center and available for review.

E. Safety Requirements

1. Drugs, poisons, harmful chemicals, equipment and tools *shall be locked* away from children.

2. Secure railing shall be provided for flights of more than three steps and for porches more than three feet from the ground.

3. Gates shall be provided at the head or foot of each flight of stairs to which children have access when children under two years of age are in care. Accordion gates are prohibited.

4. Fences shall be provided where there are open cisterns, wells, ditches, fish ponds and swimming pools.

5. First aid supplies shall be available at the day care center. Suggestions for first aid supplies may be obtained from the Red Cross.

6. The center and yard must be clean and free from hazards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5321. Admission of Children/Procedures for Parents

A. Admission of children shall include an interview with the parent or guardian to secure necessary information about the child (see Appendices A and B) and to provide pertinent information about the center's program and policies.

B. The day care director shall ensure that a health record on each child, including school age children, is available

verifying the child has had or is in the process of receiving all immunizations appropriate to her/his age. These documents shall be part of the child's records (see Appendix A). When the child leaves the day care facility, these documents shall be returned to the parent.

C. Parents or guardians/custodians shall be provided with a written description of the center's program, policies, fee (if any), annual and daily schedule. Parents will also be advised of the licensing authority of the Department of Social Services and will be given (in writing) the telephone number of the department, and advised that they may call the department should they have significant, unresolved licensing complaints.

D. Custodial parents or guardians, and non-custodial parents with written authorization by the custodial parent, shall be informed in writing that they are welcome to visit the center anytime during regular open hours as long as their child is enrolled. They should be advised not to distract staff from regular duties during such visits, unless an appointment has been made or an emergency arises.

E. Discrimination by child day care centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. A written non-discrimination policy is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR 19:

§5323. Care of the Children

A. Nutrition

1. Well-balanced and nourishing meals and snacks shall be provided.

a. Children in care for more than four hours must receive a quantity of food that will supply approximately 1/2 to 2/3 of the current Recommended Dietary Allowances of the National Research Council.

Order from National Academy Press, 2101 Constitution Avenue N.W., Washington, D.C. 20418 (Call 202-334-3313).

b. *To ensure well-balanced and nourishing meals and snacks, the specified patterns for meals and snacks included under the Child Care Food Program of the United States Department of Agriculture (see Appendix C) must be followed.*

2. Meals and snacks *must* be offered at 2 to 2½ hour intervals.

3. Weekly menus for meals and snacks shall be posted for viewing by the parents and reviewing by the licensing surveyors.

4. Children coming in the morning without breakfast shall be served this meal.

5. It is not permissible for children to bring their own food to the center with the following exceptions:

a. Bottled formula for infants should be supplied by the parent and must be labeled.

b. Children on therapeutic diets prescribed by a physician may bring their own food for meals and snacks if a written request is received and kept on file.

c. Refreshments for special occasions such as birthday

parties and holidays, with prior approval from the director.

6. Food shall not be sold to the children.
7. Infants are to be fed and supervised individually.
 - a. Infants shall be held while feeding. A bottle shall not be propped at any time.
 - b. Written permission from a parent is necessary in order to place an infant who can hold a bottle in the crib with the bottle.
 - c. Any current feeding recommendations of physicians should be kept on file and followed.

8. Drinking water shall be readily available to the children in single service cups or cups that can be sanitized.

Drinking fountains are permissible. Infants and toddlers should be offered water at intervals.

9. All food, including that brought from home, as allowed under §5323.A.5, must be properly prepared and stored in a safe and sanitary manner. Perishable food must be refrigerated at 45°F or below.

B. Health Service to the Child

1. No drugs of any type, including aspirin, shall be given by the center personnel unless prescribed by the child's physician or authorized in writing by the parent.

2. Each child in the center shall have all medical information required by the Office of Public Health.

3. Each child shall be observed for possible signs of illness or infections and appropriate action taken.

4. If symptoms of contagious or infectious diseases develop while the child is in care, he shall be placed in isolation until a parent or designated person has been consulted. Any child who has had a 101° temperature reading the last 12 hours is suspect.

5. Children with the following illnesses or symptoms are to be excluded from the day care center based on potential contagiousness of the disease. Periods may be extended beyond this depending upon individual conditions.

<u>ILLNESS/SYMPTOM</u>	<u>EXCLUDE UNTIL</u>
Meningococcal disease (Neisseria meningitis)	Well with proof of non-carriage ¹
Hib disease (haemophilus influenza)	Well with proof of non-carriage ¹
Diarrhea (two or more loose stools or over and above what is normal for that child)	Diarrhea resolved or is controlled (contained in diaper or toilet)
Fever of unknown origin (100° oral or 101° rectal or higher) and some behavioral signs of illness	Fever resolved or cleared by child's physician or health department
Chicken pox	Skin lesions (blisters) scabbed over completely
Hepatitis A	One week after illness started and fever gone

AIDS (or HIV infection)

Until child's health, neurologic development, behavior, and immune status is deemed appropriate (on a case-by-case basis) by qualified persons², including the child's physician, chosen by the child's parent or guardian and the center director

Undiagnosed generalized rash

Well or cleared by child's physician

Any child with a sudden onset of vomiting, irritability or excessive sleepiness

Evaluated and cleared by child's physician

¹ Proof of Non-Carriage: Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

² These persons should include the child's physician and other qualified individuals such as the center director, a representative of the state's Office of Public Health, and a child development specialist and should be able to evaluate whether the child will receive optimal care in the specific program being considered and whether an HIV-infected child poses a potential threat to others.

With most other illnesses, children have either *already exposed* others before becoming obviously ill (e.g., colds) or *are not contagious one day after beginning treatment* (e.g. strep throat, conjunctivitis, impetigo, ringworm, parasites, head lice, and scabies). The waiting periods required after the onset of treatment vary with the disease. Check with your local health department for information on specific diseases. Children who are chronic carriers of viral illnesses such as CMV (cytomegalovirus) and herpes can and should be admitted to day care centers.

Note: A center shall institute a policy of using universal precautions when activities involve contact with blood or other body fluids (such as diaper changing, cleaning up blood spills, etc.). For additional information refer to the universal precautions as required by Chapter XXI of the State Sanitary Code.

6. The parent or designated person shall be notified as soon as possible if a child develops symptoms of illness or suffers an accident while in care.

7. Each child shall have on file a statement signed by the parent authorizing the center to administer or obtain emergency treatment.

C. Daily Program

1. There shall be a schedule of the day's plan of activities, providing for flexibility and changes, as seem necessary. The program of activities shall be adhered to with reasonable closeness, but shall accommodate and have due

regard for individual differences among the children. The program shall provide time and materials for both vigorous and quiet activity for children to share or to be alone, indoor and outdoor play and rest. Regular time should be allowed for routines such as washing, lunch, rest, snacks and putting away toys. Active and quiet periods should be alternated so as to guard against over-stimulation of the child. Quiet play such as story telling or music should precede the lunch hour, which then should be followed by a rest period.

2. Pre-school children shall have a rest period of at least one hour.

3. While awake, infants shall not remain in a crib, a baby bed, or a playpen for more than 30 consecutive minutes.

D. Care for Children During Nighttime Hours

1. All of these minimum standards for child care centers apply to child care centers which provide care during nighttime hours with the inclusion of the following standards as set forth in §5323.D. Any child care center caring for children at night, but for less than 24 hours must follow the same requirements for personnel standards as previously stated.

2. In addition, the following standards shall apply:

a. One adult must remain awake all night if a child day care center is providing nighttime care, and must make periodic checks on children. There must be at least two adults on the premises at all times, regardless of the number of children in attendance.

b. Meals must be served to children who are in the center at the ordinary meal times.

c. Each child shall have a separate bed or cot with his or her own linens covering the bedding.

d. Children of the opposite sex over six years of age shall *not* sleep in the same room without adult supervision.

e. Evening quiet time activity such as story time, games, and reading shall be provided to each child arriving before bedtime.

f. No physical restraints shall be used to confine children to bed.

E. Supervision

1. Children shall be supervised at all times including nap time. Children shall never be left alone in any room or outdoors at any time without an adult present.

2. While on duty with a group of children, child care staff members shall devote their entire time in supervision of the children and in participation with them in their activities.

F. Discipline

1. Each center shall establish policy in regard to methods of discipline. This written, prominently posted policy must clearly state *all* types of discipline that are used and methods of discipline prohibited.

2. No child shall be subject to physical punishment, corporal punishment, verbal abuse or threats. Cruel, severe, unusual or unnecessary punishment shall not be inflicted upon children. Derogatory remarks shall not be made in the presence of children about family members of children in care or about the children themselves.

3. No child or group of children shall be allowed to discipline another child.

4. When a child is removed from the group for

disciplinary reasons, he should never be out of sight of a staff member.

5. No child shall be deprived of meals or any part of meals for disciplinary reasons.

6. Reports of mistreatment of children coming to the attention of the Department of Social Services will be investigated.

7. Any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, may result in revocation of the license if the owner is responsible or if the employee who is responsible remains in the employment of the facility.

G. Abuse and Neglect. Any suspected abuse and/or neglect of a child in a day care center must be reported in accordance with R.S. 14:403 to the local Child Protection Agency. This statement shall be included in the written discipline policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR

§5325. Transportation

The center which provides transportation of children assumes additional responsibility for the safety of children. The center's transportation plan must be posted if the service is provided. If transportation is not provided, there must be a notice posted to that effect.

A. Transportation Furnished by Center

1. The director shall ensure that transportation arrangements conform to state laws, including seat belts and child restraints.

2. The driver shall be covered by liability insurance.

3. The driver shall hold a valid appropriate Louisiana driver's license.

4. The driver shall not leave the vehicle unattended at any time while transporting children.

5. The driver shall see that:

a. each child boards or leaves the vehicle from the curb side of the street and/or is safely conducted across the street;

b. a responsible person is present when the child is delivered to his home or the center;

c. good order is maintained on the vehicle.

6. The vehicle shall be maintained in good repair.

7. Vehicles shall carry liability insurance in accordance with state law.

B. Transportation by Commercial Concern. When the center contracts with a commercial concern for transportation, it must select one with a good reputation and reliable drivers. The above rules on transportation shall be observed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Social Services, Office of the Secretary, LR

Interested persons may submit written comments within 30 days to the following address: Steve Phillips, Director, Bureau of Licensing, Box 3078, Baton Rouge, LA, 70821-3078. He is the person responsible for responding to inquiries

regarding this proposed rule.

Public hearings on this proposed rule will be held on Thursday, June 24, 1993, in the Wyly Tower Auditorium, La. Tech University, Ruston, LA, at 1:30-3:30 p.m.; Friday, June 25, 1993, at Southwestern University, Hamilton Hall, Room 108, Lafayette, LA, from 1:30-3:30 p.m.; and Monday, June 28, 1993, at Delgado Community College, Little Theatre, New Orleans, LA, from 10 a.m. to 12 noon. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing at the public hearing.

Gloria Bryant-Banks
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: CLASS "A" MINIMUM STANDARDS**

**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 of the changes to the licensing standards announcing the change and the cost of printing approximately 2,500 copies of the Class A Licensing Manual to incorporate the change into existing policy. The projected estimated cost of the printing is \$1,506 plus \$1,875 for postage to mail all copies to all Class A providers.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

This rule will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NON-
GOVERNMENTAL GROUPS (Summary)**

There will be negligible impact for both costs and benefits as the changes to the licensing standards are not cost related.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There is no effect projected on competition or employment.

Steve Phillips
Director

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

**Department of Treasury
Bond Commission**

Multi-family Housing

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Louisiana State Bond Commission intends to amend the commission's rules as originally adopted November 20, 1976.

Rule No. HS1-1993

Definitions of Income Class

Whereas, the State Bond Commission finds a need to adopt uniform definitions of the various income classes designated in applications relative to housing issues in the State of Louisiana;

Therefore, the State Bond Commission hereby adopts the following definitions which shall be applicable to all rules governing the issuance of housing bonds in the state of Louisiana.

Very Low Income—households whose incomes do not exceed 50 percent of the median income for the area, as determined and adjusted from time to time by HUD.

Low Income—households whose incomes do not exceed 80 percent of the median income for the area, as determined and adjusted from time to time by HUD.

Moderate Income—households whose incomes are between 81 percent and 95 percent of the median income for the area, as determined and adjusted from time to time by HUD.

Middle Income—households whose income are between 96 percent and 120 percent of the median income for the area, as determined and adjusted from time to time by HUD.

The schedule of income levels as published periodically by HUD will be used for purposes of this rule to determine income levels for particular areas of the state.

Rule No. HS2-1993

State Bond Commission Multi-family Housing Applicants

Whereas, the State Bond Commission has found that there is a need to address the needs of low to moderate income families in multi-family housing projects which come before the commission for consideration;

Therefore, the State Bond Commission adopts the following rule which shall apply to all such applications submitted to the State Bond Commission for new construction, acquisition and/or rehabilitation, or refunding of multi-family housing projects.

Multi-family housing applications must include defined tenant benefit programs for those units set aside for very low, low and/or moderate income families. Those applications that do not include such programs will not be docketed for consideration. Such programs may include rent differentials, special assistance programs or other specific benefit packages for the targeted income class.

Interested persons may submit their views and opinions through June 3, 1993, to Rae Logan, Secretary and Director of the State Bond Commission, twenty-first floor, State Capitol Building, Box 44154, Baton Rouge, LA 70804.

At least eight working days prior to the meeting of the commission at which a rule or rules are proposed to be adopted, amended or repealed, notice of any intention to make an oral presentation shall be given to the director of the commission. If the presentation is to be oral, such notice shall contain the name or names, telephone numbers, and mailing addresses of the person or persons who will make such oral presentation, who they are representing, the estimated time needed for the presentation, and a brief summary of the presentation. Notice of such oral presentation may be sent to all commission members prior to the meeting. If the presentation is to be written, such notice shall contain the name or names of the persons submitting such written statement, who they are representing, and a copy of the statement itself. Such written statement shall be sent to all commission members prior to the meeting. The commission shall consider all written and oral submissions concerning the proposed rules. Upon adoption of a rule, the commission, if requested to do so

by an interested person either prior to the adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for or against its adoption.

Mary L. Landrieu
State Treasurer and Chairperson

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MULTI-FAMILY HOUSING**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the proposed rules regarding multi-family housing financings will not impact costs to the state or local governments.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is anticipated that the proposed rules regarding multi-family housing financings will not impact costs to the state or local governments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
It is anticipated that the proposed rules regarding multi-family housing financings will not impact costs to the state or local governments.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is anticipated that the proposed rules regarding multi-family housing financings will not impact costs to the state or local governments.

Rae W. Logan
Director

John R. Rombach
Legislative Fiscal Officer

NOTICE OF INTENT

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

Fill Material (LAC 76:XIII.101)

The Wildlife and Fisheries Commission does hereby give notice of its intent to promulgate a rule to require that any person who removes or intends to remove any type of fill material from any water bottom which is property of the state of Louisiana shall be authorized to do so only upon securing a permit from the Department of Wildlife and Fisheries prior to removal of said fill. Further, any person who severs fill material from state owned water bottoms may be liable to pay to the state of Louisiana through the Department of Wildlife and Fisheries a severance royalty for each cubic yard removed in amounts set by this rule.

Title 76

WILDLIFE AND FISHERIES

Part IX. Natural and Scenic Rivers System

Chapter 3. Royalties

Repealed.

Part XIII. Fill Material

Chapter 1. Royalties

§101. Dredging

A. The Louisiana Department of Wildlife and Fisheries has adopted, via resolution of the Wildlife and Fisheries Commission, the following rules relative to the dredging of fill material, sand and gravel from water bottoms owned by the state of Louisiana and royalties thereon.

B. No fill material shall be dredged from state owned water bottoms unless a permit for that removal is issued by the Louisiana Department of Wildlife and Fisheries.

C. A severance royalty for each cubic yard of material removed from state owned water bottoms shall be paid to the state through the Department of Wildlife and Fisheries in the amounts indicated in the schedule below:

Fill Material and/or fill sand	\$.20/cubic yard
Gravel, screened and washed	\$.60/cubic yard
Gravel and sand, unscreened	\$.40/cubic yard
Sand, screened	\$.22/cubic yard

Any interest and/or penalty owed on unpaid royalty shall be established by the department in accordance with the Administrative Procedure Act.

D. No person or firm shall dredge fill material, sand or gravel from the public water bottoms of this state without a permit from the Department of Wildlife and Fisheries, the fee for which shall be set at \$25, non-refundable.

E. The extent of a single permitted site in the Mississippi River, the Atchafalaya River, the Red River, the Pearl River (not including the West Pearl), the Calcasieu River below the saltwater barrier, the Ouachita/Black River south of the confluence of Bayou Bartholomew shall not exceed one linear mile and shall not extend across the geometric center line of the stream. The extent of a single permitted site on all other streams except designated Natural and Scenic streams shall not exceed one linear half mile. Fill material, sand and gravel shall not be permitted to be removed from the water bottom of any designated Natural and Scenic River unless removal of such material is specifically allowed by statute.

F. A permit shall not be issued to an applicant who is, or who contracts for the removal of fill material with someone who is not currently in good standing with the department. Those applicants whose fill material permit has been revoked or suspended for cause within the past 12 months, or who has an outstanding, unresolved royalty debt to the department, or who has repeatedly violated other provisions of previous permits or agreements may be deemed to not be in good standing with the department.

G. A performance bond or irrevocable letter of credit to run concurrently with the period of the permit, and in the amount according to the schedule below, shall accompany the application. In lieu, the entire royalty fee owed to the state may be remitted with the application.

Bond Value per volume dredged in 100 yd³

Type of Material	0 to 5 yd ³	5+ to 10 yd ³	10 + to 50 yd ³	50 + to 100 yd ³	100+yd ³
Fill Material and/or Fill Sand	\$1,000	\$2,000	\$10,000	\$20,000	\$.20 x total cu. yds
Sand, Screened	\$1,100	\$2,200	\$11,000	\$22,000	\$.22 x total cu. yds
Gravel and Sand, Unscreened	\$2,000	\$4,000	\$20,000	\$40,000	\$.40 x total cu. yds
Gravel, Screened and Washed	\$3,000	\$6,000	\$30,000	\$60,000	\$.60 x total cu. yds

A certified copy of such bond must be submitted to the Department of Wildlife and Fisheries before commencement of any dredging operation.

H. Any person or firm found to be dredging without, or in violation of a validly issued permit from this department shall be subject to criminal and civil penalties pursuant to R.S. 56:2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission LR 19:

Interested persons may submit written comments relative to the proposed rule until 4:30 p.m. Thursday, July 8, 1993 to Fredrick J. Prejean, Sr., Undersecretary, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Bert H. Jones
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FILL MATERIAL**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs associated with the rule change.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be 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)
There is no cost anticipated or economic benefits to any persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Fredrick J. Prejean
Undersecretary

David W. Hood
Senior Fiscal Analyst

NOTICE OF INTENT

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

Menhaden Season Dates (LAC 76:VII.307)

The Wildlife and Fisheries Commission does hereby give notice, in accordance with the Administrative Procedure Act, of its intent to promulgate a rule to amend the legal menhaden fishing season.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

**Chapter 3. Saltwater Sport and Commercial Fishing
§307. Menhaden Season**

A. The season for the taking of menhaden as well as processing of menhaden shall be from the third Monday in April through November 1.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:313, 56:6(25)(a) and 56:326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:329 (October 1979), amended LR 14:547 (August 1988), amended LR 19:58 (January 1993), amended LR 19:

Interested persons may submit written comments relative to the proposed rule until Thursday, July 8, 1993 to Harry Blanchet, Marine Fish Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000.

Bert H. Jones
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: MENHADEN SEASON DATES**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will have no implementation costs. Enforcement of the proposed rule will be carried out using the existing staff in conjunction with other duties.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule will slightly increase revenue collections of state and local governmental units due to increased fuel and sales taxes because of a longer menhaden season.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)
The menhaden industry will not incur additional costs associated with the proposed rule, but will realize additional gross revenues of approximately \$2-3 million.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule will have no impact on competition and employment.

Fredrick J. Prejean, Sr.
Undersecretary

David W. Hood
Senior Fiscal Analyst

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Department of Environmental Quality Office of Air Quality and Radiation Protection

Redesignation of Grant Parish to Ozone Attainment

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that a change in the "State Implementation Plan" for Ozone abatement procedures has been initiated as follows:

Redesignation of Grant Parish to Ozone Attainment status is being proposed by Louisiana. Grant Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the Revised State Implementation Plan was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A public hearing will be held at 7 p.m., Tuesday, June 21, 1993 in the Police Jury Meeting Room located in the Courthouse Building, 200 Main Street, Colfax, LA, to receive comments on this proposed redesignation.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP change. Such comments should be submitted no later than June 28, 1993 to Annette Sharp, LDEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA 70884-2135. She may be contacted at (504) 765-0219. A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second Floor, Baton Rouge.

Joan Albritton
Administrator

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Redesignation of Lafayette Parish to Ozone Attainment

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that a change in the "State Implementation Plan" for Ozone abatement procedures has been initiated as follows:

Redesignation of Lafayette Parish to Ozone Attainment status is being proposed by Louisiana. Lafayette Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the Revised State Implementation

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Department of Agriculture and Forestry Horticulture Commission

Retail Floristry Examination

The next retail floristry examinations will be given at 9:30 a.m. daily at the 4-H Mini Farm Building, LSU Campus, Baton Rouge, LA. The exam will be given in Baton Rouge permanently. The deadline for getting in application and fee is June 18, 1993. All applications and fees must be in the Horticulture Commission office no later than 4:30 p.m. on the deadline date. The test dates will be July 19-23, 1993.

Further information concerning examinations may be obtained from Craig M. Roussel, Director, Horticulture Commission, Box 3118, Baton Rouge, LA 70821-3118, phone (504) 925-7772.

Bob Odom
Commissioner

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Annual Toxics Emission Report

The Department of Environmental Quality, Office of Air Quality and Radiation Protection has published the *Annual Toxics Emissions Report*. This report compares the 1991 toxic air pollutant emissions to the 1987 toxic air pollutant emissions baseline. The report was prepared in accordance with the requirements of R.S. 30:2060.G. Interested persons may obtain copies of the report by contacting the Office of Air Quality and Radiation Protection at (504) 765-0219.

Joan Albritton
Administrator

Plan was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A public hearing will be held at 7 p.m., Wednesday, June 23, 1993 in the City Council Auditorium, 705 W. University Street, Lafayette, LA, to receive comments on this proposed redesignation.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP change. Such comments should be submitted no later than June 28, 1993 to Annette Sharp, LDEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. She may be contacted at (504) 765-0219. A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second Floor, Baton Rouge or the Acadiana Regional Office, 100 Asma Boulevard, Suite 151, Lafayette, LA.

Joan Albritton
Administrator

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Redesignation of St. James Parish to Ozone Attainment

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:1051 et seq. and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that a change in the "State Implementation Plan" for Ozone abatement procedures has been initiated as follows:

Redesignation of St. James Parish to Ozone Attainment status is being proposed by Louisiana. St. James Parish was previously designated as transitional. Guidelines provided to the state by EPA were followed in preparing the 1979 submittal with the result that the Revised State Implementation Plan was approved by EPA. Sufficient improvement in ozone monitoring data in this parish has been shown in the intervening years to qualify for attainment status. A public hearing will be held at 7 p.m., Thursday, June 24, 1993 in the Council Chambers, 5800 LA Highway 44, Convent, LA, to receive comments on this proposed redesignation.

Interested persons are invited to attend and submit oral comments on the proposal. All interested persons are invited to submit written comments concerning the SIP change. Such comments should be submitted no later than June 28, 1993 to Annette Sharp, LDEQ, Air Quality Regulatory Division, Box 82135, Baton Rouge, LA, 70884-2135. She may be contacted at (504) 765-0219. A copy of the SIP changes may be viewed at the Air Quality Regulatory Division from 8 a.m. to 4:30 p.m., Monday through Friday, 7290 Bluebonnet, Second

Floor, Baton Rouge or the Capital Regional Office, 11720 Airline Highway, Baton Rouge, LA.

Joan Albritton
Administrator

POTPOURRI

Department of Health and Hospitals Office of Management and Finance Division of Policy and Program Development

Community-Based and Rural Health Program

The Department of Health and Hospitals' Division of Policy and Program Development will accept letters of intent for the following:

1. *Emergency Health Services.* Small rural hospitals, defined herein, on the intended use of up to \$75,000 in state grants to strengthen the capability of small rural hospitals to provide high quality emergency health services to indigent and low-income persons in rural areas. Hospitals that are eligible to apply are public and private acute care hospitals licensed for 60 beds or less which have a service municipality with a population of 20,000 or less.

The letter of intent should reflect how the funds requested will further this goal. Grant recipients will be required to maintain an audit trail verifying that any monies received under this grant program were in fact used to enhance emergency room services.

Letters of intent will be accepted until July 30, 1993 and processed according to receipt and awards will be issued accordingly.

2. *Primary Care Clinic Grants.* Eligible applicants include existing federally funded community health centers or public or private organizations located in federally designated medically underserved areas. All interested applicants must submit a letter of intent prior to a completed application kit. The proposal, including any appendices, may not exceed 50 typed double-spaced letter-sized pages.

Application kits may be obtained by sending letters of intent to the Department of Health and Hospitals' Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349. Completed application kits will be accepted until September 30, 1993.

3. *Demonstration Grants.* Existing federally-funded community health centers or public or private organizations located in local communities or rural areas may apply for a demonstration grant to fund a project designed to innovatively, efficiently, and effectively develop and provide needed primary health care.

The Department of Health and Hospitals anticipates awarding demonstration grant(s) to innovatively develop primary care services in rural areas and local communities, including but not limited to such projects as the establishment of acquisition of mobile health clinics. The amount of

available funds for this purpose is limited, and the grantee will be required to provide a 25 percent match to the funds; for example, \$100,000 state and \$25,000 applicant.

The proposal format should be determined by the applicant and should clearly describe the proposed project's goals and objectives and strategies to accomplish the goals and objectives. Additionally, the proposal should address a needs assessment, a management plan, a detailed budget, and budget justification. Completed proposals must be sent to the Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349. Applications are due by September 30, 1993, or to accompany a federal grant proposal.

4. *State Matching Funding for Federal Grants.* Applications will be accepted for projects to provide community-based health services to indigent or low-income persons, as proposed in a federal grant application proposal. Applications are due by September 30, 1993, or to accompany a federal grant proposal.

5. *Physician Salary Subsidy.* Local health agencies or communities may apply for state matching funding for physician salary guarantees of \$100,000 annually in salary and benefits, to assist in recruiting or retaining primary care physicians in local communities and rural areas. State salary subsidies will not exceed \$50,000, and the local agency/community must demonstrate its ability to at least match the state amount. The local agency/community match may include but is not limited to cash; fringe benefits; rent; clerical, medical records, and billing support; continuing education stipend(s); and medical malpractice coverage.

The Department of Health and Hospitals will contract directly with local health agencies, who in turn contract with physicians. As such, local health agencies must submit with their request for assistance under this provision, a copy of a proposed contract with a physician. Such contract must address the \$100,000 guarantee. The Department of Health and Hospitals will make no payments under this recruitment/retention incentive until the physician's actual received income and benefits are reconciled against his/her contract guarantees.

Should the number of requests under this provision exceed the available funds, the Department of Health and Hospitals reserves the right to prioritize requests based on the health professional shortage area's ratio population to primary care physicians.

It should be noted that the provisions of this notice are contingent upon the availability of funds.

Interested persons may submit letters of intent or request applications to the following address: Suzanne Lavergne, Office of Management and Finance, Division of Policy and Program Development, Box 1349, Baton Rouge, LA 70821-1349, FAX number 504/342-5839.

J. Christopher Pilley
Secretary

POTPOURRI

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

Disproportionate Share Adjustment Payment Methodologies

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, in accordance with the emergency rules implementing a change in policy for payments of disproportionate share payments published in the March 20, 1993 and April 20, 1993 *Louisiana Register*, Volume 19, Numbers 3 and 4, is providing notice of the amounts of the disproportionate share pools for the remainder of the Federal Fiscal Year 1993. These amounts are tentative pending final determination of Louisiana's disproportionate share cap amount under P. L. 102-234.

The indigent pool has been set at \$153,200,000, while the Medicaid days pools have been set as follows:

Teaching Pool = \$225,200,000

Non-teaching Pool = \$82,980,000

Psychiatric Pool = \$121,620,000

The first payments under these pools shall appear on the remittance advice of May 11, 1993 as an "audit adjustment." Payments are tentative as the proposed change is subject to approval by the Health Care Financing Administration.

J. Christopher Pilley
Secretary

POTPOURRI

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

Enrollment of Inpatient Psychiatric Beds

The secretary of the Department of Health and Hospitals hereby informs the public that the emergency rule published in the January 20, 1993 and the March 20, 1993 issues of the *Louisiana Register*, Volume 19 Numbers 1 and 3 was adopted and published subject to the suspensive condition of approval by the Health Care Financing Administration. The federal approval of the Medicaid State Plan amendment pertinent to this emergency rule is not forth coming and that emergency rule is void. The policy in existence prior to the adoption of that emergency rule is now continued in force.

J. Christopher Pilley
Secretary

POTPOURRI

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

**Intermediate Care I, II, and Nursing Facilities
Reimbursement**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing is providing notice that the Title XIX Medicaid reimbursement rates for Skilled Nursing, Intermediate Care I and Intermediate Care II levels of care are as follows, effective July 1, 1993.

Level of Care	Daily	Monthly
Skilled Nursing	\$76.01	\$2,311.98
Intermediate Care I	\$66.03	\$2,008.42
Intermediate Care II	\$55.34	\$1,683.26

J. Christopher Pilley
Secretary

POTPOURRI

**Department of Insurance
Commissioner of Insurance**

Directive 73—Chiropractors

Notice is hereby given that the Commissioner of Insurance has issued Directive 73, which applies to all persons subject to R.S. 22:668 regarding reimbursement or payment for chiropractic treatment.

As stated in the directive and accompanying bulletin, the department intends to strictly enforce the provisions of R.S. 22:668. Failure to comply with the provisions of this statute will result in administrative action. In particular, the use of language in a policy which is facially neutral but in practice results in discriminatory coverage, or the reimbursement of chiropractic treatment at rates less than that paid to other providers, will not be tolerated.

Further information regarding Directive 73, or copies thereof, may be obtained by contacting the Department of Insurance, Consumer Affairs Division, Box 94214, Baton Rouge, LA 70804-9214.

James H. "Jim" Brown
Commissioner of Insurance

POTPOURRI

**Department of Public Safety and Corrections
Board of Parole**

Sex Offender Act Public Hearing

In accordance with the laws of the state of Louisiana and with particular reference to the provision of R.S. 15:547, notice is hereby given that the Board of Parole will conduct public hearings in all municipalities with a population of not less than 50,000. At such hearing the Board of Parole will hear testimony relative to the sex offenders act and what information regarding sex offenders should be disclosed to the public and how this information will be disseminated to the public.

The hearing for the city of New Orleans will be held on Tuesday, June 1, 1993 from 5 p.m. to 7 p.m. in the City Council Chambers, Room 1E04, 1300 Perdido Street, New Orleans, Louisiana.

The hearing for the city of Shreveport will be held on Tuesday, June 1, 1993 from 5 p.m. to 7 p.m. in the Shreveport City Hall, Room 211, 1234 Texas Street, Shreveport, Louisiana.

The hearing for the city of Lafayette will be held on Wednesday, June 2, 1993 from 5 p.m. to 7 p.m. in the Lafayette City Hall, Council Chambers, 705 University Street, Lafayette, Louisiana.

The hearing for the city of Monroe will be held on Wednesday, June 2, 1993 from 5 p.m. to 7 p.m. on the First Floor, Monroe City Hall, 400 Lea Joyner Expressway, Monroe, Louisiana.

The hearing for the city of Baton Rouge will be held on Friday, June 4, 1993 from 5 p.m. to 7 p.m. in Room 348 of the Governmental Building at 222 St. Louis Street, Baton Rouge, Louisiana.

The hearing for the city of Kenner will be held on Friday, June 4, 1993 from 5 p.m. to 7 p.m. in the Council Chambers of the Kenner City Hall, 1801 Williams Blvd., Kenner, Louisiana.

The hearing for the city of Bossier will be held on Wednesday, June 29, 1993 from 5 p.m. to 7 p.m. in the training room of the Bossier City Police Department, 620 Benton Road, Bossier City, Louisiana.

The hearing for the city of Lake Charles will be held on Wednesday, June 30, 1993 from 5 p.m. to 7 p.m. in the Lake Charles Council Chambers, 320 Pujoe Street, Lake Charles, Louisiana.

All interested persons will be afforded an opportunity to present data or views, orally or in writing, at said public hearing. Written comments which will not be presented at the hearing must be received no later than 4:30 p.m., July 5, 1993, at the Baton Rouge office. Comments should be directed to: Board of Parole, Box 94304, Baton Rouge, Louisiana 70804-9304, Re: Sex Offender Act.

Ronald Bonvillian
Chairman

POTPOURRI

Department of Transportation and Development Sabine River Compact Administration

Spring Meeting

The Spring meeting of the Sabine River Compact Administration will be held at the Maison Dupuy Hotel, 1001 Toulouse Street, New Orleans, La., on Friday, June 11, 1993; the meeting will begin a 9:30 a.m. The Engineering Committee, SRCA, will meet at 1:30 p.m. on Thursday, June 10, 1993 at the same location.

The purpose of the meeting will be to conduct business as programmed in Article IV(8) of the bylaws to the Sabine River Compact.

The Fall meeting will be held at a site in Texas to be designated at the above described meeting.

The contact person in Louisiana concerning the meeting is: Max J. Forbes Jr., Secretary, Sabine River Compact Administration, 1064 Highland Park Drive, Baton Rouge, LA 70808; (B) 504-765-0558 (H) 504-766-1698.

Max J. Forbes, Jr.
Secretary

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