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Executive Orders

EXECUTIVE ORDER MJF 98-7

Latin American Business Development Commission

WHEREAS, Executive Order No. MJF 97-54, signed on December 3, 1997, establishes the Louisiana Latin American Business Development Commission (hereafter "Commission"); and

WHEREAS, it is necessary to amend several provisions in that Order;

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

SECTION 1: Section 2 of Executive Order No. MJF 97-54 is amended to provide as follows:

The duties and functions of the Commission shall include, but are not limited to, the following:

A. Identifying trade/market opportunities in Latin America beneficial to Louisiana and make recommendations on the development of these opportunities;

B. Making policy recommendations regarding trade agreements between the United States and countries in Latin America;

C. Identifying methods that will enable products grown, manufactured or produced in Louisiana, to compete more aggressively in existing and/or emerging Latin American markets; and

D. Making policy recommendations which will make Louisiana more attractive as a trading partner with, and as a destination for, Latin American investments.

SECTION 2: Section 4 of Executive Order No. MJF 97-54 is amended to provide as follows:

The advice and recommendations of the Commission shall be consistent with the goals and objectives of the Board, the Louisiana Economic Development Council, and the International Trade Commission.

SECTION 3: Section 5 of Executive Order No. MJF 97-54 is amended to provide as follows:

The Commission shall be composed of fourteen (14) members who shall be appointed by and serve at the pleasure of the governor. The membership of the Commission shall be selected as follows:

A. The governor, or the governor's designee;

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

C. The commissioner of Financial Institutions, or the commissioner's designee;

D. One (1) member of the Louisiana International Trade Development Board;

E. One (1) member of the Louisiana Economic Development Council; and

F. Nine (9) citizens of the state of Louisiana with at least five (5) years of experience in one or more of the following fields: international trade, finance, economics, oil and gas services, maritime activities, agriculture, world health, governmental relations, and/or environmental protection.

SECTION 4: All other sections and subsections of Executive Order No. MJF 97-54 shall remain in full force and effect.

SECTION 5: The provisions of this Order are effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 16th day of February, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9803#021

EXECUTIVE ORDER MJF 98-8

Bond Allocation—Industrial Development Board of the Parish of Ouachita, LA, Inc.

WHEREAS, pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act No. 51 of the 1986 Regular Session of the Louisiana Legislature, Executive Order No. MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996, to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1998 (hereafter "the 1998 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1998 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS, the Industrial Development Board of the Parish of Ouachita, LA, Inc., has requested an allocation from the 1998 Ceiling to be used in connection with the financing of the acquisition, construction, expansion, furnishing, and equipping of an existing plant used to manufacture dry ice for Dixie Carbonic, Inc. (the "Project"), located in Monroe, Louisiana, parish of Ouachita, in accordance with the provisions of Section 146 of the Internal Revenue Code of 1986, as amended;

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

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1998 Ceiling as follows:

Amount Of Allocation	Name Of Issuer	Name of Project
\$1,600,000	Industrial Development Board of the Parish of Ouachita, LA, Inc.	Dixie Carbonic, Inc.

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

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before June 2, 1998.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the Internal Revenue Code of 1986, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 3rd day of March, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9803#022

EXECUTIVE ORDER MJF 98-9

Latin American Business Development Commission

WHEREAS, Executive Order No. MJF 97-54, signed on December 3, 1997, established the Louisiana Latin American Business Development Commission (hereafter "Commission")

and Executive Order No. MJF 98-7, signed on February 16, 1998, amended several provisions in that Order; and

WHEREAS, it is necessary to amend Executive Order MJF 97-54 a second time in order to add an additional member to the Commission;

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

SECTION 1: Section 5 of Executive Order No. MJF 97-54, as amended by Section 3 of Executive Order No. MJF 98-7, is amended to provide as follows:

The Commission shall be composed of fifteen (15) members who shall be appointed by and serve at the pleasure of the governor. The membership of the Commission shall be selected as follows:

- A. The governor, or the governor's designee;
- B. The secretary of the Department of Economic Development, or the secretary's designee;
- C. The commissioner of Financial Institutions, or the commissioner's designee;
- D. One (1) member of the Louisiana International Trade Development Board;
- E. One (1) member of the Louisiana Economic Development Council; and
- F. Ten (10) citizens of the state of Louisiana with at least five (5) years of experience in one or more of the following fields: international trade, finance, economics, oil and gas services, maritime activities, agriculture, world health, governmental relations, and/or environmental protection.

SECTION 2: All other sections and subsections of Executive Order Nos. MJF 97-54 and MJF 98-7 shall remain in full force and effect.

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

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the state of Louisiana, at the capitol, in the city of Baton Rouge, on this 3rd March, 1998.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9803#023

Emergency Rules

DECLARATION OF EMERGENCY

Department of Economic Development Office of Financial Institutions

Disbursement of Security Monies (LAC 10:XV.503)

Under the authority of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953(B)(1) relating to emergency rulemaking, and in accordance with the provisions of R.S. 9:3576.16(C) contained within the Collection Agency Regulation Act, R.S. 9:3576.1 et seq., the Commissioner of the Office of Financial Institutions hereby determines that adoption of the following rule, which provides for the procedure this Office and all affected constituents are to follow upon the forfeiture or voluntary surrender of the posted security of a licensed debt collection agency and the resolution of competing claims to these monies, is necessary and that failure to do so would pose an imminent peril to the public health, safety and welfare.

The Office of Financial Institutions ("Office") is presently faced with competing claims by former clients of now-defunct collection agencies to the monies represented by surety bonds or other security posted by these companies and assigned to this Office in accordance with the provisions of R.S. 9:3576.15. This Office must now promulgate a procedure for the disbursement of the underlying funds of such posted security as required by R.S. 9:3576.16(C) to assure that such monies are fairly, equitably and expeditiously distributed among all proper claimants.

Therefore, in accordance with R.S. 49:953(B), the Office hereby adopts this rule, the effective date of which is March 10, 1998, and such rule shall be in effect for a period of 120 days or until promulgation of a final rule, whichever occurs first.

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 5. Debt Collection Agencies

§ 501. Reserved

§ 503. Disbursement of Security Monies

A. Purpose. The Office of Financial Institutions is presently faced with competing claims by former clients of now defunct collection agencies to the security monies represented by surety bonds or cash monies posted by these licensed companies and assigned to this office in accordance with R.S. 9:3576.15. This office must promulgate procedures for the discovery and recognition of claims against this security, and for the fair, equitable and expeditious distribution of these funds among all qualified claimants.

B. Definitions

Bar Date—the date after which no new claims may be filed.

Claim—any obligation of a licensed debt collection agency owed to a client for the payment of money arising out of any agreement or contract for the collection of funds owed to the client by a debtor.

Client—any person authorizing or employing a collection agency to collect a debt on their behalf.

Commissioner—the Commissioner of Financial Institutions.

Concursus—a proceeding similar to that which is set forth in the *Louisiana Code of Civil Procedure*, LSA-C.C.P. arts. 4651-4662.

Defunct Agency—a debt collection agency that has voluntarily relinquished its license or has had its license terminated, and does not have sufficient funds in its trust account(s) to pay its outstanding claims owed to its clients.

Security Monies—a surety bond or cash monies which are required to be posted by a debt collection agency to ensure the prompt and full payment of claims.

C. Background. R.S. 9:3576.15(A) requires entities licensed as debt collection agencies under the Collection Agency Regulation Act ("CARA") R.S. 9:3576.1, et seq., to post a surety bond in favor of the Office of Financial Institutions ("Office") in the amount of \$10,000. R.S. 9:3576.15(C) permits a licensee to deposit cash or other securities with the office in lieu of such bond. R.S. 9:3576.16 permits clients or customers to bring suit against such bond or other security when such parties allege damages through the failure of the licensee to properly remit due and owing funds in accordance with R.S. 9:3576.18. R.S. 9:3576.16(B) requires the Commissioner to maintain a record of all suits commenced under CARA upon a surety bond, cash or other security deposited in lieu thereof.

D. Bar Date. The bar date for filing claims shall be the same as provided for in Rule 3002(c) of the Federal Bankruptcy Rules of Procedure, which shall be 90 days after the post mark date on the notice form. The post mark date on the notice form shall not be included in calculating the 90-day bar date period.

E. Maintenance of Suit Records. The office will file a motion with the appropriate Clerk of Court for the Judicial District wherein the affected debt collection agency is located, requesting that the clerk provide notice of all suits commenced against the surety bond or cash monies which have been posted with the Commissioner in accordance with R.S. 9:3576.16(C), when he has knowledge that a suit may be or has been commenced.

F. Action on a Surety Bond. If the Commissioner receives notice that a client has commenced an action on a surety bond posted as security by the licensee, he may require the debt collection agency to provide notice to each client, as identified on the records of the licensee, of the commencement of said action, and include therein the name and address of the surety company that has issued the surety bond.

G. Procedure to Resolve a Defunct Agency

1. If the licensee has opted to post security in the form of cash, in accordance with the requirements established by the Commissioner, and the licensee has surrendered its license or has had its license terminated, and if the licensee does not have sufficient funds available in its trust account(s) to pay all of its outstanding client claims, the office may avail itself of the following method of resolving competing claims.

2. Such an action may be initiated in the nature of a concursus proceeding; however, the Commissioner may modify the procedures set out in La. C.C.P. Articles 4651-4662 in any manner he deems necessary to accomplish the dissolution and distribution of the cash monies in an equitable and expeditious manner.

3. The following is an illustrative listing of the steps to be followed in providing notice to claimants and to distribute securities monies to all qualified persons having competing claims. The Commissioner may modify this procedure as he deems necessary and appropriate to effectuate its purposes.

a. A written notice shall be provided to all clients advising them of the intention of the Office to distribute the cash monies held in actual or constructive possession by the Commissioner.

b. Such notice shall provide the name and address of the office where claims may be filed, and the person to whom such claims should be directed.

c. The notice shall also provide that any and all claims which are either disqualified or which are not timely filed will be barred from participating in the distribution of the cash monies.

d. Along with the notice referred to in §503.G.3, the Commissioner will provide each claimant with a proof of claim form which must be completed in every respect and filed with the Office within the bar period provided in §507. The Commissioner will be required to verify each proof of claim as being valid before accepting them for filing. If a claim cannot be verified, it will be disqualified and will not be eligible to participate in the distribution of the cash monies.

e. Upon the expiration of the bar date, and after each qualified proof of claim has been verified, the Commissioner will compile a list of all persons who are eligible to participate in the distribution of the cash monies and the amount of funds that each person has claimed they are owed.

f. All notices, proof of claim forms, and other required forms shall be as prescribed by the Commissioner.

H. Distribution of the Cash Monies

1. After the office has determined the names of all eligible claimants, the Commissioner shall petition the Nineteenth Judicial District Court for authority to have each claimant recognized as having a valid claim against the cash monies in the possession of the office.

2. To his petition the Commissioner shall attach a proposed method of distribution, setting out the amount he proposes each claimant is due, and seeking Court approval of the method of distribution.

3. The Commissioner may pray in his petition for an order of the Court authorizing payment of the competing

claims in accordance with the method of distribution set out in his petition.

4. The method of distribution of the cash money shall be accomplished in a manner which the Commissioner deems to be reasonable, and which shall assure prompt and expeditious payment to the claimants and is calculated to minimize the expenses associated with the distribution of funds.

5. After the distribution of funds has been completed, the Commissioner shall seek an order of the Court to be released from any further liability for the distribution of funds.

6. The Commissioner may also pray for any other relief, both legal and/or equitable, that he deems necessary and appropriate to effectuate the purposes of LAC 10:XV.503.

I. Severability. If any section, term, or provision of any of LAC 10:XV.503 is, for any reason, declared or adjudged to be invalid, such invalidity shall not affect, impair, or invalidate any of the remaining rules, or any term or provision thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 9:3576.16(C).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 24:

Larry L. Murray
Commissioner

9803#046

DECLARATION OF EMERGENCY

**Department of Economic Development
Office of the Secretary**

**Workforce Development and Training
Program (LAC 13:I.5017)**

The Department of Economic Development, Office of the Secretary is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), to promulgate emergency rules of the Louisiana Workforce Development and Training Program effective immediately. These rules are prescribed in accordance with LAC 13:I. Chapter 50. These emergency rules shall remain in effect for a period of 120 days or until a final rule is promulgated, whichever occurs first.

The Department of Economic Development is exercising the emergency provision of the Administrative Procedure Act, R.S. 49:953(B), in order to publish these rules because of a recognized immediate need to assist businesses with customized workforce training programs in order to create and retain jobs statewide.

The emergency rule changes will provide clarification of issues related to the eligible costs of the program. Without these changes, businesses will be severely impacted and the state's workforce will experience a disruption due to an absence of training assistance for continued employment and job retention. Such disruption would likely result in diminished job creation and increased risk of higher unemployment.

The proposed emergency rules are intended to mitigate the disruptions described above.

Title 13
ECONOMIC DEVELOPMENT
Part I. Commerce and Industry
Subpart 3. Financial Incentives
Chapter 50. Workforce Development and Training
Program

§5017. General Award Provisions

A. Award Contract

1. A contract will be executed between DED, the applicant [and/or company(ies)] receiving training and an appropriate monitoring entity from the same geographic area as the applicant. The contract will specify the performance objectives expected of the company(ies) and the compliance requirements to be enforced in exchange for state assistance, including, but not limited to, time frames for job training and job creation.

2. The monitoring entity will monitor the progress of the training and reimburse the applicant from invoices submitted by the applicant on a form approved by DED.

3. DED will disburse funds from invoices or certificates of work completed.

4. The cost associated with this contract incurred by the monitoring entity will be considered part of the total training award, but will not exceed 5 percent of the award amount or \$10,000, whichever is less.

5. Funds may be used for training programs extending up to two years in duration.

6. Contracts issued under previous rules may be amended to reflect current regulations as of the date of the most recent change, upon request of the contractor and approval of the secretary.

B. Use of Funds

1. The Louisiana Workforce Development and Training Program offers financial assistance in the form of a grant for reimbursement of eligible training costs specified in the award agreement.

2. Eligible training costs may include, inter alia, the following:

a. instruction costs: wages for company trainers and training coordinators, Louisiana public and/or private school tuition, contracts for vendor trainers and training seminars;

b. travel costs (limited to 30 percent of the total training award): travel for trainers and training coordinators (company and other) and travel for trainees. Travel expenses reimbursable under this agreement will comply with state travel regulations, PPM 49;

c. materials and supplies costs: training texts and manuals, audio/visual materials, skills assessment (documents or services to determine training needs), raw materials (for manufacturing and new employee on-the-job training), Computer Based Training (CBT) software; and

d. other costs: facility rental, wages for on-the-job trainees (limited to 25 percent of a trainee's wage, excluding benefits), and fees or service costs incurred by the monitoring entity associated with the contract to monitor the training and to disburse award funds, as limited by §5017.A.3.

3. Training costs ineligible for reimbursement include:

a. trainee fringe benefits;

b. nonconsumable tangible property (e.g., equipment,

calculators, furniture, classroom fixtures, nonComputer Based Training [CBT] software), unless owned by a public training provider;

c. out-of-state, publicly supported schools;

d. employee handbooks;

e. scrap produced during training;

f. food/refreshments; and

g. awards.

4. Training activities eligible for funding consist of:

a. basic skills: literacy, numeracy, problem solving, team participation, etc.;

b. transferable skills: skills which will enhance an employee's general knowledge, employability and flexibility in the workplace (e.g., welding, computer skills, blueprint reading, etc.);

c. company-specific skills: skills which are unique to a company's workplace, equipment and/or capital investment;

d. quality standards skills: skills which are intended to increase the quality of a company's products and/or services and ensure compliance with accepted international and industrial quality standards (e.g., ISO standards); and

e. pedagogical skills: skills which pertain to instructional methods and techniques to be used by trainers (these are most relevant to train-the-trainer activities).

C. Amount of Award. Award may include new employee training and/or workplace-based retraining not to exceed \$500,000 for total amount.

1. **New Employee Training.** The training award amount may cover up to 100 percent of the eligible training costs (listed in §5017.B.Use of Funds), not to exceed \$500,000.

2. **Workplace-Based Retraining.** The training award amount may cover up to 50 percent of the eligible training costs, with the exception of trainee wages which shall be reimbursed at 100 percent of eligible costs (listed in §5017.B.Use of Funds), not to exceed \$500,000.

D. Conditions for Disbursement of Funds

1. Funds will be available on a reimbursement basis following submission of approved invoices to DED. Funds will not be available for reimbursement until a training agreement between the applicant [and/or company(ies)] receiving the training and an approved training provider has been executed. Only funds spent on the project after the secretary's approval will be considered eligible for reimbursement.

2. Invoices will be eligible for reimbursement at 90 percent until all contracted performance objectives have been met. After the company has achieved 100 percent of its contracted performance objectives, the remaining 10 percent of the grant award will be made available for reimbursement.

E. Compliance Requirements

1. Contractees shall be required to complete quarterly reports describing progress toward the performance objectives specified in their contract with DED.

2. The termination of employees during the contract period who have received program-funded training shall be for documented cause only, which shall include voluntary termination.

3. In the event a company or sponsoring entity fails to meet its performance objectives specified in its contract with

DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the company and/or sponsoring entity in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

4. In the event a company or monitoring entity knowingly files a false statement in its application or in a progress report, the company or monitoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

5. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the monitoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2331 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 23:1643 (December 1997), amended LR 24:

Kevin P. Reilly, Sr.
Secretary

9803#045

DECLARATION OF EMERGENCY

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

State-Funded Senior Centers (LAC 4:VII.1233)

The Office of the Governor, Office of Elderly Affairs (GOEA) does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to its authority under R.S. 46:1608, adopts the rule set forth below, effective February 19, 1998. This emergency rule is necessary to implement the provisions of R.S. 46:932(14) enacted by Act Number 1182 of the 1997 Regular Session of the Louisiana Legislature.

This emergency rule shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1233. State-Funded Senior Center Operation

A. - E.3. ...

F. Plan for the Distribution of State Funds for Senior Centers

1. Funds appropriated by the state legislature for the operation of senior centers will be included in the total budget of the Governor's Office of Elderly Affairs (GOEA) and allocated to the Parish Councils on Aging (PCOAs) for distribution. Those PCOAs which are under multi-parish Area Agencies on Aging (AAAs) may request GOEA to channel funds for senior centers in their parish through the AAA. Such requests must be accompanied by a resolution adopted

by the PCOA board of directors. GOEA's allocations of state funds will be based upon legislative formula.

2. Beginning in FY '98, requests for funding in a given parish must be recommended by the local PCOA and approved by GOEA prior to the creation of any new state-funded senior center in the state. Recommendations from a PCOA shall be based on need for a new facility and whether the proposed facility will meet the criteria for a senior center as defined in Subsection G of this Section.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932, R.S. 43:1119, and R.S. 46:1608.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 24:

Larry Kinlaw
Appointing Authority

9803#017

DECLARATION OF EMERGENCY

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

Disproportionate Share
Hospital Payment Methodologies

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

Disproportionate Share Hospital (DSH) payment limits were established by the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66), which amended §1923 of the Social Security Act. In order to comply with the budgetary limitations imposed by that federal legislation and to avoid a budget deficit in the medical assistance program, the bureau amended the payment methodologies for public state-operated hospitals, private hospitals, and public nonstate hospitals effective July 1, 1995. Under the methodology, public state-owned hospitals received DSH payments equal to 100 percent of the hospital's net uncompensated cost, and private hospitals and public nonstate hospitals received DSH payments according to a formula based on an eight-pool methodology.

Effective March 20, 1997, the department adopted an emergency rule pursuant to Act Number 17 (House Bill Number 1) of the 1996 Legislative Session that provided for separate treatment of disproportionate share funds for uncompensated cost in small (60 beds or less) nonstate-operated local government hospitals and small (60 beds or less) private rural hospitals.

Effective November 3, 1997 the department adopted an emergency rule pursuant to Act Number 1485 of the 1997 Legislative Session which provides that all rural hospitals meeting the requirements of Act 1485 are to receive maximum disproportionate share funding in amounts appropriated by the legislation to the extent authorized by federal law. Therefore, the following rule continues the provisions of the November 3, 1997 emergency rule.

Emergency Rule

Effective March 3, 1998, the Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies and establishes the following regulations to govern the disproportionate share hospital payment methodologies:

I. General Provisions

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

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

C. Appropriate action including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital other than a small rural or state hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the hospital's fiscal year-end cost report ending during the previous state fiscal year ending. DSH payments to a small rural hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the hospital's fiscal year-end cost report ending during April 1 through March 31 of the previous year. DSH payments to a state hospital determined under any of the methodologies below shall not exceed the hospital's uncompensated cost for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest year-end cost report for the year ended during the period July 1 through June 30 of the previous year except that a small rural hospital's qualification is based on the hospital's year-end cost report for the year ending during the period April 1 through March 31 of the previous year. Only hospitals that return timely DSH qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. Hospitals/units which close or withdraw from the Medicaid program shall become ineligible for further DSH

pool payments for the remainder of the current DSH pool payment cycle and thereafter.

G. *Net Uncompensated Cost* is defined as the cost of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. It is mandatory that qualifying hospitals seek all third-party payments including Medicare, Medicaid and other third-party carriers. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments.

H. No additional payments shall be made if an increase in days is determined after audit. Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the state plan of any hospitals in the state for the year in which the recoupment is applicable.

I. Disapproval of any payment methodology(ies) by the Health Care Financing Administration does not invalidate the remaining methodology(ies).

II. Qualifying Criteria for a Disproportionate Share Hospital

A. A hospital must have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligibles. In the case of a hospital located in a rural area (i.e., an area outside of a metropolitan statistical area), the term *obstetrician* includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures; or

B. A hospital treats inpatients who are predominantly individuals under 18 years of age; or

C. A hospital did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

D. A hospital has a utilization rate in excess of either of the below specified minimum utilization rates:

1. *Medicaid Utilization Rate*—a fraction (expressed as a percentage), the numerator of which is the hospital's number of Medicaid (Title XIX) inpatient days and the denominator of which is the total number of the hospital's inpatient days for a cost-reporting period. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

2. *Low-Income Utilization Rate*—the sum of:

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

b. the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges

for inpatient services which are attributable to charity (free care in a period, less the portion of any cash subsidies as described in Section II.D.2.a in the period which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. The above numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges attributable to Hill-Burton obligations; or

3. effective November 3, 1997, be a small rural hospital as defined in Section III.B.

E. In addition to the qualification criteria outlined in Section II.A.-D, effective July 1, 1994, the qualifying disproportionate share hospital must also have a Medicaid inpatient utilization rate of at least 1 percent.

III. Reimbursement Methodologies

A. Public State-Operated Hospitals

1. A *public state-operated hospital* is a hospital that is owned or operated by the State of Louisiana.

2. DSH payments to individual public state-owned or operated hospitals are equal to 100 percent of the hospital's net uncompensated costs subject to the adjustment provision in Section III.A.3. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

3. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH appropriated amount, the department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH appropriated amount.

B. Small Rural Hospitals

1. A *small rural hospital* is a hospital (other than a long-term care hospital, rehabilitation hospital, or free-standing psychiatric hospital but including distinct part psychiatric units) meeting the following criteria:

a. had no more than 60 hospital beds as of July 1, 1994, and:

(1) is located in a parish with a population of less than 50,000; or

(2) is located in a municipality with a population of less than 20,000; or

b. meets the qualifications of a sole community hospital under 42 CFR §412.92(a).

2. Payment is based on uncompensated cost for qualifying small rural hospitals in the following two pools:

a. public (nonstate) *small rural hospitals* are small rural hospitals as defined above which are owned by a local government;

b. *private small rural hospitals* are small rural hospitals as defined above that are privately owned.

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the period April 1 through March 31 of the preceding year multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. A pro rata decrease necessitated by conditions specified in Section I.B for rural hospitals described in Section III will be calculated using the ratio determined by dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in this section, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

C. All Other Hospitals (Private and Public Nonstate Rural Hospitals over 60 Beds, All Private Urban Hospitals, Free-Standing Psychiatric Hospitals, Exclusive of State Hospitals, Rehabilitation Hospitals, and Long-Term Care Hospitals)

1. Annualization of days for the purposes of the Medicaid days pools is not permitted. Payment is based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Amount will be obtained by DHH from a report of paid Medicaid days by service date.

2. Payment is based on Medicaid days provided by hospitals in the following two pools:

a. *acute care hospitals* are acute care, rehabilitation, and long-term care hospitals not described in Section III.B (excluding distinct part psychiatric units);

b. *psychiatric hospitals* are free-standing psychiatric hospitals and distinct part psychiatric units not included in Section III.B.

3. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals in the pool, and multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

4. A pro rata decrease necessitated by conditions specified in Section I.B for hospitals described in this Section will be calculated based on the ratio determined by dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in this Section, then multiplying by the

amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

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

David W. Hood
Secretary

9711#007

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Pollution Control (LAC 43:XIX.129)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) and (2), and 954(B)(2), as amended, the following emergency rule and reasons therefor are now adopted and promulgated by the commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by establishing a revised procedure for testing of Exploration and Production (E&P) waste prior to shipment to and acceptance by a commercial facility in the state of Louisiana and verification testing after receipt of such E&P waste at a commercial facility.

Need and Purpose

Certain oil and gas Exploration and Production waste (E&P waste) is exempt from the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). This exemption is based on findings from a 1987-1988 Environmental Protection Agency (EPA) study and other studies that determined this type of waste does not pose a significant health or environmental threat when properly managed. The EPA, in its regulatory determination, found that these wastes are adequately regulated under existing federal and state programs.

Existing Louisiana state regulations governing the operations of commercial E&P waste disposal facilities (Statewide Order No. 29-B) require only very limited testing of the waste received for treatment and disposal at each commercial facility. Such limited testing finds its basis in the above-mentioned national exemption for E&P waste recognized by the EPA. However, public concern as to the possible toxicity of such waste and the possible health effects on the public and the environment warrants a new look at E&P waste generation, transportation and disposal in the state of Louisiana.

Working with the Louisiana Department of Environmental Quality (DEQ) and the Louisiana Department of Health and

Hospitals (DHH), a two-phased testing program for all types of E&P waste disposed of at commercial E&P waste disposal facilities within the state of Louisiana has been designed and will be implemented by the Office of Conservation. Exploration and production waste will be tested both for toxicity characterization and for E&P source verification. The new testing program will be known as Statewide Order No. 29-B Emergency Rule.

The emergency rule was drafted during the time interval of October 3, 1997 through February 27, 1998 by staff of the Office of Conservation, with technical input from the Office of Conservation's contract laboratory and contract toxicologist, DEQ Staff and DHH Staff. Baseline information was obtained from a statewide sampling and testing program for all types of E&P waste from 89 sites of generation throughout Louisiana, including offshore (Phase-one).

Analytes chosen for the baseline testing program were selected from recommendations by the Office of Conservation's contract toxicologist, with concurrence from both DEQ and DHH. The Environmental Protection Agency's Toxicity Characteristic Leaching Procedure (TCLP) was conducted during the testing program to provide estimates of:

- 1) the extent to which chemicals in each E&P waste material are leachable/soluble;
- 2) the extent to which E&P waste material presents a threat to groundwater; and
- 3) the extent to which the inorganic chemicals in each waste material are bioavailable for absorption into the body.

Emphasis was placed on correct laboratory procedural methodology and quality control throughout the sampling and testing period. In addition to the Office of Conservation test results, analytical data available from the EPA, the American Petroleum Institute and the Gas Research Institute provided the rationale for determining the technical basis for the new testing requirements.

Statewide Order No. 29-B Emergency Rule (Phase-two) will provide requirements for continued E&P waste characterization and verification testing. After implementation of the emergency rule, the Office of Conservation will initiate rulemaking to promulgate new permanent regulations which will recognize and encourage new and innovative ways to manage E&P waste. Best management practices will be the measure of acceptability for both existing and emerging technologies. Analytical data generated during the effective term of the emergency rule, along with best management practices, will be used to determine the limits for waste constituents received at commercial E&P waste disposal facilities.

Synopsis

1. Exploration and production waste will be tested for characterization.

As a key provision of the emergency rule, a waste profile must be developed for each specific testing batch of E&P waste proposed for storage, treatment or disposal at a commercial facility in the state. Based on the results of the Office of Conservation sampling and testing program, as well as staff expertise, four different groups of analytical procedures have been established. Depending on the chemical complexity of a specific testing batch, applicable testing

procedures are required to establish the waste profile for each testing batch.

In order to not unnecessarily delay drilling operations utilizing closed mud systems with limited on-site storage systems, or in emergency situations, provisions have been made to allow documentation of testing procedures to be submitted to the receiving commercial facility within 30 days after setting of the surface casing. Such provision is reasonable because only native water-base drilling muds are commonly used at the startup of drilling operations and prior to setting of surface casing. Additionally, alternate sampling and testing protocols consistent with emergency rule standards may be authorized by the Office of Conservation upon written request. For example, the taking of waste characterization samples at a commercial facility may be proposed as an alternative to taking such samples at the site of generation.

Produced water, produced formation fresh water and other E&P waste fluids are exempt from certain provisions of the testing requirements provided they are:

- 1) stored and transported in enclosed tank trucks, barges, or other enclosed containers;
- 2) stored in enclosed tanks at a commercial facility; and
- 3) disposed by deepwell injection.

Such provision is reasonable because, provided the above conditions are met, exposure to the public and to the environment would be minimal.

2. Exploration and production waste will be transported with identification.

The rule primarily requires that each E&P waste shipping unit transported from the site of generation to a commercial facility will be accompanied by a copy of the waste profile (Form UIC-35) and an Oilfield Waste Shipping Control Ticket (UIC-28, Manifest) and presented to the facility operator before offloading. Timely filings of required laboratory reports will be made to the Office of Conservation.

3. Each load of E&P waste will be tested at a commercial facility.

Before offloading at a commercial E&P waste disposal facility and in order to verify that the waste qualifies for the E&P category, each E&P waste shipping unit shall be sampled for required parameters. Additionally, the presence and concentration of BTEX (benzene, toluene, ethyl benzene and xylene) compounds and hydrogen sulfide must be determined. Appropriate records of tests shall be kept at each commercial facility for review by the Office of Conservation.

Reasons

Recognizing the potential advantages of a testing program for the characterization of Exploration and Production (E&P) waste that is fully protective of public health and the environment, and recognizing the potential advantages of a testing program that adequately characterizes such waste as to its potentially toxic constituents, it has been determined that failure to establish such procedures in the form of an administrative rule may lead to the existence of an imminent peril to the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally.

Protection of the public and our environment therefore requires the commissioner of Conservation to take immediate steps to assure that adequate testing is performed before E&P

waste is treated or otherwise disposed of in a commercial facility. The emergency rule set forth hereinafter is now adopted by the Office of Conservation.

Notwithstanding the above, it is necessary to allow the affected industry adequate time to prepare for implementation and compliance with the emergency rule. Time must be allowed for establishing test equipment and qualified personnel, contracting with laboratories, training of personnel, and possible modification of exploration and production schedules and procedures. For the above reasons, the effective date of this emergency rule will be set approximately 60 days after the date of signing.

Effective Date and Duration

1. The effective date for this emergency rule shall be May 1, 1998.

2. The emergency rule herein adopted as a part thereof, shall remain effective for a period of not less than 120 days hereafter, or until the adoption of the final version of an amendment to Statewide Order No. 29-B as noted herein, whichever occurs first.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 1. Statewide Order No. 29-B

Chapter 1. General Provisions

§129. Pollution Control

A. - B. ...

1. Definitions

* * *

Container—a pit, storage tank, process vessel, truck, barge or other receptacle used to store or transport E&P waste.

* * *

Drilling Waste—water-base mud, oil-base mud or other drilling fluids and cuttings generated during the drilling of wells. These wastes are a subset of E&P waste.

* * *

Exploration and Production (E&P) Waste—as defined in §129.M.1.

* * *

NOW—Exploration and Production (E&P) waste.

* * *

Shipping Unit—an individual shipment of a portion or the entirety of an identified E&P waste testing batch to a commercial facility.

* * *

Testing Batch—an accumulation of an E&P waste type generated in association with exploration and production operations, or a mixture of such waste types, which is initially collected or temporarily retained at the site of generation in a container, quantified as follows.

i. Except for drilling waste, a testing batch is defined as E&P waste that is ready to be shipped offsite to a commercial facility. After the testing batch has been established and a sample has been taken, no additional waste may be added to the container(s) until all of its contents have been shipped to a commercial facility. If additional waste is added to the container(s) before all of its contents have been shipped, this shall constitute a new testing batch. Multiple containers may be used to store or ship a single testing batch

from a single generation source (e.g., pit, tank, etc.) to a commercial facility.

ii. In the case of drilling waste, each type of mud system (water-base, oil-base or other) together with cuttings and fluids associated with such system, shall constitute a separate testing batch. During drilling operations at a depth below the surface casing, the drilling waste generated for each mud system shall be sampled as a separate testing batch. Shipments of a portion of a drilling waste testing batch will not constitute formation of a separate testing batch.

iii. For production tank sludge and other process vessel waste, the container (tank, vessel, etc.) need not be taken out of service during sampling and analysis of the testing batch.

* * *

2. General Requirements

a. - m.iii. ...

n. Exploration and Production Waste Characterization Procedures

i. All E&P waste generated within or without the state of Louisiana including offshore Louisiana (both state and federal waters) and proposed to be transported to a commercial facility in the state of Louisiana must be sampled and analyzed in accordance with EPA protocols or Office of Conservation's approved procedures. For procedures B, C and D, E&P waste shall be tested by a laboratory not owned or operated by the generator of the waste.

ii. The following procedures are to be utilized as applicable (see table in §129.B.2.n.iii) to characterize each E&P testing batch:

- Procedure A:** color
specific gravity
turbidity - clear, cloudy, or muddy
viscosity - low, medium or high
- Procedure B:** oil and grease (% by weight)
reactive sulfide (ppm)
- Procedure C:** Toxicity Characteristic Leaching Procedure (TCLP) for the following volatile organics:
Benzene
Ethyl benzene
Toluene
Xylene
- Procedure D:** Toxicity Characteristic Leaching Procedure (TCLP) for the following metals:
Arsenic
Barium
Cadmium
Chromium
Lead
Mercury
Selenium
Silver

iii. The following table indicates which testing procedures in §129.B.2.n.ii above are to be utilized to characterize E&P waste:

Waste Type/Description	Required Testing Procedures*
01 - Salt Water (produced brine or produced water)	A, B, C, and D
02 - Oil-base mud / cuttings	A, B, C and D
03 - Water-base mud / cuttings	A, B and C
04 - Workover / completion fluids	A, B and C
05 - Production pit sludge	A, B, C and D
06 - Production tank sludge	A, B, C and D
07 - Produced sand / solids	A, B, C and D
08 - Produced formation fresh water	A, B, C and D
09 - Rainwater - ring levees/pits	A and B
10 - Washout water	A and B
11 - Washout pit water	A, B and C
12 - Gas plant processing waste	A, B, C and D
13 - BS&W waste from approved commercial salvage oil operators	A, B, C and D
14 - Pipeline test water and pipeline pig water	A, B, C and D
15 - E&P waste generated by permitted commercial facilities	A, B, C and D
16 - Crude oil spill clean-up waste	A, B and C
99 - Other approved E&P waste	A, B, C and D

* See testing exemptions for E&P wastes as provided in §129.B.2.n.v, vi, vii, viii and ix below.

iv. If a testing batch is composed of more than one type of E&P waste, the testing procedures applicable to all types of waste in the testing batch shall be utilized to characterize the waste.

v. An E&P waste testing batch containing no more than five barrels total volume is exempt from the testing requirements of §129.B.2.n.ii, Procedures B, C and D.

vi. Drilling fluids and cuttings generated during the drilling of surface casing hole are exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

vii. Wash water and solids (E&P waste type 10) generated at a commercial facility by the cleaning of a container holding a residual amount (of no more than one barrel) of E&P waste is exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

viii. E&P waste stored and transported in a barge from a transfer station to a commercial treatment facility is exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D.

ix. Produced water, produced formation fresh water, and other E&P waste fluids are exempt from the testing requirements of §129.B.2.n.ii, Procedures A, B, C and D under the following conditions:

- (a). if stored and transported by the generator or transporter in enclosed tank trucks, barges, or other enclosed containers; and
- (b). if stored in an enclosed container at a commercial facility; and
- (c). if disposed by deep well injection.

x. Except for the provisions of §129.B.2.n.v, vi, vii, viii and ix, E&P waste generated out-of-state, except offshore Louisiana (both state and federal waters), and transported to a Louisiana commercial facility for storage, treatment or disposal must be tested for the parameters required in Procedures A, B, C, and D above.

xi. Testing batch samples shall be taken at the site of generation, tested, and the testing results reported in the following manner.

(a). Upon identifying a testing batch, the E&P waste generator shall send a sample to the testing laboratory and initiate an E&P Waste Profile (Form UIC-35). For each new testing batch the generator must complete the top portion of the form (general information), indicate the waste type/description, and sign the form in the appropriate location.

(b). The generator shall perform test Procedure A for each testing batch and the results reported in the appropriate location on Form UIC-35.

(c). Data Submission

(i). Test Procedures B, C, and D shall be performed on each testing batch sample by the testing laboratory and a laboratory report provided to the generator and to the commercial facility operator within 30 days of the date of the first shipment of each testing batch. Upon receipt of the laboratory test data, the commercial facility shall enter such data on Form UIC-35.

(ii). The generator, commercial facility operator, or testing laboratory shall electronically submit the laboratory data for required E&P waste analyses to the Office of Conservation within 30 days of the first shipment of each testing batch. Such report shall be submitted to the Office of Conservation in ASCII comma delimited format either by electronic mail (E-mail via Internet) or on 3½-inch floppy disk. Generators of E&P waste must contact the Office of Conservation, Injection and Mining Division, if, for some reason, such electronic reporting cannot be made.

(d). The original completed or partially completed Form UIC-35 must accompany the first E&P waste shipping unit transported to a commercial facility and must be presented to the facility operator with the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) before offloading. Form UIC-35 does not need to accompany subsequent waste shipping units for the same testing batch.

xii. The generator or commercial facility operator shall identify each E&P waste testing batch and each E&P waste shipping unit as follows.

(a). Each testing batch shall be separately identified by using the manifest number (Manifest No.) of the first shipping unit transported to a commercial facility. This testing batch number shall be placed on the E&P Waste Profile in the appropriate location.

(b). The testing batch number shall also be placed on the Exploration and Production (Oilfield) Waste Shipping Control Ticket (Form UIC-28) in the top left corner (under the form number) on the manifest for each shipping unit.

(c). Each E&P waste shipping unit (of each testing batch) shall be identified on the Exploration and Production

(Oilfield) Waste Shipping Control Ticket (Form UIC-28) in the top left corner under the testing batch number by a sequential numbering system (e.g., 1, 2, 3, etc.). When the last E&P waste shipping unit of a specific testing batch is sent to the commercial facility, the word END shall be placed next to the load number (e.g., 5 END).

xiii. Alternate sampling and testing protocols consistent with the above standards may be authorized by the Office of Conservation upon written request by an operator or commercial facility. Written authorization must be received prior to initiating alternate sampling and testing protocols.

3. - 6.d.iii. ...

iv. For reactive sulfides, samples shall be analyzed according to SW 846, Chapter 7, Section 7.3.4 or latest revision by EPA.

v. TCLP samples shall be analyzed according to EPA document *Test Methods for Evaluating Solid Waste, S.W. 846*, Third Edition, Revised 12/96 or latest revision by EPA.

(a). For TCLP metals, samples are to be extracted according to SW 846 Method 1311, then digested according to SW 846 series 3000 or latest revision by EPA.

(b). Upon completion of the extraction and digestion phases, metals are to be analyzed according to SW 846 methodology series 6000 and/or 7000 or latest revision by EPA.

(c). TCLP organics identified in Procedure C are to be extracted according to SW 846 Method 1311 or latest revision by EPA. Analytes are to be analyzed according to SW 846 Method 8260 or latest revision by EPA.

vi. Except as herein provided otherwise, sampling and testing procedures should comply with Office of Conservation manual *Laboratory Procedures for Analysis of Nonhazardous Oilfield Waste* (latest revision).

6.e. - f.ii. ...

7. - 9.c. ...

C. - L. ...

M. Off-Site Storage, Treatment and/or Disposal of E&P Waste Generated from Drilling and Production of Oil and Gas Wells

1. Definitions

Commercial Facility—a legally permitted waste storage, treatment and/or disposal facility which receives, treats, reclaims, stores, or disposes of exploration and production waste for a fee or other consideration, and shall include the term "transfer station."

Exploration and Production (E&P) Waste—drilling fluids, produced water, and other waste associated with the exploration, development, or production of crude oil or natural gas and which is not regulated by the provisions of the Louisiana Hazardous Waste Regulations and the Louisiana Solid Waste Regulations. Such wastes include, but are not limited to, the following:

i. salt water (produced brine or produced water), except for salt water whose intended and actual use is in drilling, workover or completion fluids or in enhanced mineral recovery operations;

ii. oil-base drilling mud and cuttings;

iii. water-base drilling mud and cuttings;

- iv. drilling, workover and completion fluids;
- v. production pit sludges;
- vi. production storage tank sludges;
- vii. produced oily sands and solids;
- viii. produced formation fresh water;
- ix. rainwater from ring levees and pits at production and drilling facilities;
- x. washout water generated from the cleaning of containers that transport E&P waste and are not contaminated by hazardous waste or material;
- xi. washout pit water and solids from oilfield related carriers that are not permitted to haul hazardous waste or material;
- xii. natural gas plant processing (E&P) waste which is or may be commingled with produced formation water;
- xiii. waste from approved salvage oil operators who only receive oil (BS&W) from oil and gas leases;
- xiv. pipeline test water which does not meet discharge limitations established by the appropriate state agency, or pipeline pig water, i.e., waste fluids generated from the cleaning of a pipeline;
- xv. wastes from permitted commercial facilities;
- xvi. crude oil spill clean-up waste;
- xvii. salvageable crude oil;
- xviii. other approved E&P waste.

* * *

Shipping Unit—as defined in §129.B.1.

Testing Batch—as defined in §129.B.1.

* * *

2. Offsite Storage, Treatment, and/or Disposal of Nonhazardous Oilfield Waste at Commercial Facilities (Note: Onsite disposal requirements are listed in §129.B).

a. - e.ii.(d). ...

3. - 5.i. ...

i. ...

ii. Verification Testing Requirements

(a). Before offloading E&P waste at a commercial facility, each E&P waste shipping unit shall be sampled and analyzed by commercial facility personnel for the following:

(i). Procedure A in §129.B.2.n.ii above; and

(ii). pH, electrical conductivity (EC—mmhos/cm) and chloride (Cl) content; and

(iii). the presence and concentration of BTEX (benzene, toluene, ethyl benzene, and xylene) compounds using an organic vapor monitor or other procedures sufficient to identify and quantify BTEX; and

(iv). the presence and concentration of hydrogen sulfide (H₂S) using a portable gas monitor.

(b). The commercial facility operator shall enter the pH, electrical conductivity, chloride (Cl) content, BTEX and hydrogen sulfide measurements on the manifest (Form UIC-28) which accompanies each waste shipping unit.

(c). When the commercial facility operator receives an E&P Waste Profile (Form UIC-35) from the generator, he shall enter the results of test Procedure A (first shipping unit values for each testing batch) in the appropriate location.

(d). When the last shipping unit for an E&P waste testing batch has been received, the commercial facility

operator shall enter the maximum BTEX and hydrogen sulfide measurements (for all shipping units in the testing batch) on the E&P Waste Profile (Form UIC-35).

(e). The commercial facility operator shall submit each completed Form UIC-35 to the Office of Conservation within seven days of receipt of the last waste shipping unit of each testing batch. The Conservation copy of the manifest for each shipping unit that compose a complete testing batch must be attached to the Form UIC-35.

(f). Produced water, produced formation fresh water, and other E&P waste fluids are exempt from verification testing Procedure A, the organic vapor monitor measurement, and the H₂S measurement in §129.M.5.ii.(a) if the conditions of §129.B.2.n.ix are met.

(g). Records of these tests shall be kept on file at each commercial facility for a period of three years and be available for review by the commissioner or his designated representative.

5.iii. ...

j. - l. ...

6. - 9.b.iv. ...

N. - S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30.4 et seq.

HISTORICAL NOTE: Adopted by the Department of Conservation (August 1943), promulgated by the Department of Natural Resources, Office of Conservation, LR 6:307 (July 1980), amended LR 8:79 (February 1982), LR 9:337 (May 1983), LR 10:210 (March 1984), LR 12:26 (January 1986), LR 16:855 (October 1990), LR 17:382 (April 1991), LR 24:

Summary

The emergency rule herein above adopted evidences the finding of the commissioner of Conservation that failure to adopt the above rules may lead to an imminent risk to public health, safety and welfare, and that there is not time to provide adequate notice to interested parties. However, the commissioner of Conservation notes again that a copy of the permanent Amendment to Statewide Order No. 29-B will be developed in the near future, with a public hearing to be held as per the requirements of the Administrative Procedure Act.

The commissioner of Conservation concludes that the above emergency rule will better serve the purposes of the Office of Conservation as set forth in Title 30 of the Revised Statutes, and is consistent with legislative intent. The adoption of the above emergency rule meets all the requirements provided by Title 49 of the Louisiana Revised Statutes. The adoption of the above emergency rule is not intended to affect any other provisions, rules, orders, or regulations of the Office of Conservation, except to the extent specifically provided for in this emergency rule.

Within five days from date hereof, notice of the adoption of this emergency rule shall be given to all parties on the mailing list of the Office of Conservation by posting a copy of this emergency rule with reasons therefor to all such parties. This emergency rule with reasons therefor shall be published in full in the *Louisiana Register* as prescribed by law. Written notice has been given contemporaneously herewith notifying the governor of the state of Louisiana, the attorney general of the state of Louisiana, the speaker of the House of Representatives,

the president of the Senate and the Office of the State Register of the adoption of this emergency rule and reasons for adoption.

Warren A. Fleet
Commissioner

9803#005

DECLARATION OF EMERGENCY

**Department of Revenue
Office of Alcohol and Tobacco Control**

Expiration Dates on
Permits (LAC 55:VII.321)

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act and the authority of R.S. 26:794, the Department of Revenue, Office of Alcohol and Tobacco Control hereby finds that emergency action is deemed necessary to stagger the expiration dates of new retail permits and readjust the expiration dates of existing retail permits at the time of their renewal. The Office of Alcohol and Tobacco Control finds that this action is necessary in order to protect the public from the imminent threat to public health and safety associated with the sale of beverage alcohol from unlicensed retail outlets. The previous system utilized the first initial of the owner name to alphabetically stagger the expiration date of the permits. This system was confusing to implement and cost prohibitive to enforce. The new system allows for the year-round equal distribution of expiring permits based upon the location of the licensed establishment. This rule will allow this office to concentrate its limited resources to the particular region in which all of the retail permits are set to expire and thereby ensuring full compliance with the licensing requirements of this state.

For the foregoing reasons, the Office of Alcohol and Tobacco Control hereby amends LAC 55:VII.321 relative to the staggering of expiration dates of permits authorizing the retail sale of beverage alcohol for on premise consumption and package; and provide for the related fees and penalties.

The effective date of this emergency rule is February 18, 1998, and it shall remain in effect for 120 days or until the final rule takes effect through normal promulgation process, whichever occurs first.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 1. Beer and Liquor

Chapter 3. Liquor Credit Regulations

§321. Staggering of Expiration Dates

A. In accordance with the authority of R.S. 26:794(B), the expiration dates of retail permits issued by the Office of Alcohol and Tobacco Control shall be staggered in accordance with the provisions of this Section.

1. - 8. Repealed.

B. Purpose. The purpose of this staggering process is to provide for the even distribution of expiration dates of new and existing permits based upon the parish in which the licensed

establishment is located. This will allow the Office of Alcohol and Tobacco Control to concentrate its limited resource to the particular region of the state in which all retail permits are scheduled to expire. The expiration date of retail permits will be easy to determine and thereby assist both state and local enforcement agents, retail and wholesaler dealers in the enforcement of the licensing requirements contained in Title 26. This in turn will reduce the ever-increasing number of delinquent renewal applications filed with this office and eliminate the purchase and resale of alcoholic beverages by unlicensed establishments.

C. New Business Application and Related Fees

1. Beginning February 18, 1998, the expiration date of all retail permits issued pursuant to new-business applications shall have an expiration date to be determined by the Office of Alcohol and Tobacco Control in accordance with Subsection G of this Section.

2. The fee for all such new business permits shall be as set forth in Sections 71 and 271 of Title 26.

D. Renewal of Existing Permits and Related Fees

1. The renewal of an existing permit during this staggering process shall be for a period of not less than seven months nor more than 18 months, which period shall be determined by the Office of Alcohol and Tobacco Control in accordance with Subsection G of this Section.

2. The fee for such a permit shall be determined by a proration of the annual fee as established by Title 26 over the appropriate number of months.

E. Renewal Deadline: Penalties

1. Applications for the renewal of permits issued pursuant to this regulation shall be due in the Office of Alcohol and Tobacco Control not later than 30 days prior to the date of expiration on current permit.

2. The monetary penalties established in Sections 88 and 285 of Title 26 for those permittees who fail to timely file their renewal application shall remain in effect. The permittee shall be charged the delinquency penalty over and above the prorated fee.

F. Gross Sales. The payment of an additional permit fee by retailers based on the amount of their gross liquor sales as provided in Section 71 of Title 26 shall continue and shall be assessed on the gross sales made during the preceding calendar year. In renewal permits issued pursuant to this regulation, the additional fee shall be prorated over the appropriate number of months.

G. Expiration Date of Retail Permit. All retail permits issued after February 18, 1998, by the Office of Alcohol and Tobacco Control shall expire in accordance with the following schedule:

Parish Code	Parish Name	Expire Month
1	Acadia	October
2	Allen	March
3	Ascension	January
4	Assumption	November
5	Avoyelles	July
6	Beauregard	March

7	Bienville	September
8	Bossier	September
9	Caddo	September
10	Calcasieu	March
11	Caldwell	December
12	Cameron	March
13	Catahoula	December
14	Claiborne	September
15	Concordia	December
16	DeSoto	September
17	East Baton Rouge	January
18	East Carroll	December
19	East Feliciana	August
20	Evangeline	July
21	Franklin	December
22	Grant	December
23	Iberia	October
24	Iberville	July
25	Jackson	December
26	Jefferson	February
27	Jefferson Davis	March
28	Lafayette	October
29	Lafourche	November
30	Lasalle	December
31	Lincoln	September
32	Livingston	August
33	Madison	December
34	Morehouse	December
35	Natchitoches	December
36	Orleans	May
37	Ouachita	December
38	Plaquemines	April
39	Point Coupee	July
40	Rapides	July
41	Red River	September
42	Richland	December
43	Sabine	September
44	St. Bernard	April

45	St. Charles	April
46	St. Helena	August
47	St. James	April
48	St. John	April
49	St. Landry	July
50	St. Martin	October
51	St. Mary	November
52	St. Tammany	August
53	Tangipahoa	August
54	Tensas	December
55	Terrebonne	November
56	Union	December
57	Vermillion	March
58	Vernon	March
59	Washington	August
60	Webster	September
61	West Baton Rouge	July
62	West Carroll	December
63	West Feliciana	August
64	Winn	December

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:794.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Alcoholic Beverage Control, LR 12:247 (April 1986), amended by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:

Murphy Painter
Commissioner

9803#015

DECLARATION OF EMERGENCY

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Administrative Policy—Retirees with Medicare

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend its administrative policy relative to premiums for retirees with Medicare.

This emergency rule shall become effective on February 26, 1998, and shall remain effective for a maximum

of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend its administrative policy to provide that, for those employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only to those who are enrolled for Medicare Parts A and B. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the administrative policy of the State Employees Group Benefits Program is hereby amended to provide as follows:

Administrative Policy—Reduced Premium Rates for Retirees with Medicare. For all employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only with respect to those persons who are enrolled for Medicare Parts A and B.

James R. Plaisance
Executive Director

9803#004

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Catastrophic Illness

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule shall become effective on February 26, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document relative to the Catastrophic Illness Endorsement to provide for annual restoration of benefits. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Catastrophic Illness Endorsement provision in the Schedule of Benefits on page 6 of the Plan Document, to read as follows:

Catastrophic Illness Endorsement (Optional)

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

Option 1	Option 2
\$10,000 Maximum	\$5,000 Maximum
Automatic Annual Restoration, up to \$1,000	Automatic Annual Restoration, up to \$500

Amend Article 3, Section VI, by adding a new Subsection, designated as Subsection G, to read as follows:

G. Restoration of Catastrophic Illness Endorsement Benefits. On and after January 1, 1997, Catastrophic Illness Endorsement benefits shall be restored by the plan each January 1, up to the maximum amount of the annual restoration as stated in the Schedule of Benefits, provided that such restoration will not increase the lifetime maximum Catastrophic Illness Endorsement benefits above that provided in the Schedule of Benefits.

James R. Plaisance
Executive Director

9803#003

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Point of Service PPO Regions

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule shall become effective on February 26, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document relative to point of service regions for Preferred Provider Organizations (PPOs) to coincide with Health Maintenance Organization (HMO) service areas. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section X, Subsection A, Paragraph 1, to read as follows:

B. Point of Service PPO Regions (Areas)

1. The following regions, designated by United States Postal Service ZIP codes, are used to determine whether there

is a PPO provider in the same area as the point of service:

- Region 1 Zip Codes 70000 through 70199
- Region 2 Zip Codes 70300 through 70399
- Region 3 Zip Codes 70400 through 70499
- Region 4 Zip Codes 70500 through 70599
- Region 5 Zip Codes 70600 through 70699
- Region 6 Zip Codes 70700 through 70899
- Region 7 Zip Codes 71300 through 71499
- Region 8 Zip Codes 71000 through 71199
- Region 9 Zip Codes 71200 through 71299

James R. Plaisance
Executive Director

9803#002

DECLARATION OF EMERGENCY

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Plan Document—Pre-Existing Condition for
Overdue Application; and Special Enrollment

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

The board finds that it is necessary to amend the Plan Document relative to the pre-existing condition exclusion for overdue applicants and to provide for special enrollments in order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective July 1, 1997, and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

These amendments are effective February 26, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amendment Number 1

Amend the introduction to the Plan Document on page 3, after "Group Coverage: Self-insured and self-funded comprehensive medical benefits plan" by inserting the following on the next line:

Plan Year: July 1 - June 30

Amendment Number 2

Amend Article 1, Section I, by adding two new Subsections, designated as Subsections OO and PP, to read as follows:

OO. Group Health Plan—a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

PP. Health Insurance Coverage—benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer. However, benefits described in Section 54.9804-1(b)(2) of the rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, are not treated as benefits consisting of medical care.

Amendment Number 3

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. Retirees shall not be eligible for coverage as overdue applicants or as special enrollees.

Amendment Number 4

Amend Article 1, Section II, Subsection D to read as follows:

D. Pre-Existing Condition - Overdue Application. The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

- 1. ...
- 2. ...

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

4. If the covered person was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage

occurred within 63 days of the date of enrollment for coverage under the program.

Amendment Number 5

Amend Article 1, Section II, by inserting a new Subsection E to read as follows, and redesignating current Subsections E, F, and G as Subsections F, H, and I, respectively:

E. Special Enrollments. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, certain eligible persons for whom coverage was previously declined, and who would otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment.

5. The program will require that all special enrollment applicants complete a statement of physical condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent added through special enrollment is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

7. If the employee and/or dependent added through special enrollment was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of coverage under the program.

James R. Plaisance
Executive Director

9803#006

DECLARATION OF EMERGENCY

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Prescription Drug

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to amend the Plan Document of Benefits.

This emergency rule shall become effective on February 26, 1998, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document relative to prescription drug benefits to provide a minimum copayment of \$12 for brand name drugs. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Prescription Drug provision under "Percentage Payable after Satisfaction of Applicable Deductibles" in the Schedule of Benefits on page 5 of the Plan Document, to read as follows:

Prescription Drugs (subject to a minimum copayment of \$3 per prescription for generic drugs, and \$12 per prescription for brand name drugs, not to exceed the maximum allowable

charges): 90 percent Network;
50 percent nonNetwork, in state;
80 percent nonNetwork, out of state.

* * *

Amend Article 3, Section XI, Subsections A and D to read as follows:

XI. Prescription Drug Benefits

* * *

A. Upon presentation of the Group Benefits Program Identification card at a network pharmacy, the Plan Member shall be responsible for payment of 10 percent of eligible charges for the drug, with a minimum copayment of \$3 per prescription when a generic drug is dispensed and \$12 per prescription when a brand name drug is dispensed, provided,

however, that in no event will a combination of payments made by the prescription benefits management firm and the Plan Member exceed the actual charge by the pharmacy for the drug.

* * *

D. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs shall be limited to the prescription benefits management firm's maximum allowable charge and eligible expenses for generic drugs shall be limited to the prescription benefits management firm's generic maximum allowable charge.

* * *

James R. Plaisance
Executive Director

9803#001

Rules

RULE

Department of Economic Development Office of the Secretary

Regional Initiatives Program (LAC 13:I:Chapter 70)

In accordance with R.S. 51:2341, the Department of Economic Development, Office of the Secretary promulgates rules in LAC 13:I:Chapter 70 for the Regional Initiatives Program.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 70. Regional Initiatives Program

§7001. Purpose

The purpose of the program is to stimulate regional economic development efforts by encouraging existing public and private organizations to combine financial and leadership resources to market their shared strengths to overcome their common deficits. The program serves to help create a "spirit of regional cooperation."

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

§7003. Definitions

Applicant—the entity requesting financial assistance from DED under this program.

Award—grant funding approved under this program for eligible applicants.

Awardee—an applicant receiving an award under this program.

DED—Louisiana Department of Economic Development.

Operating Costs—ongoing administrative, salary and travel expenses of the organization(s) applying for program funds.

Program—the Regional Initiatives Program.

Secretary—the Secretary of the Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

§7005. General Principles

The following principles will direct the administration of the Regional Initiatives Program:

1. awards should be considered to be one time only funding to achieve a specific goal for a regional (multiparish) economic development organization or coalition of organizations;

2. grant proposals must delineate clearly what is proposed and what is to be achieved by the award;

3. awards are not for the purpose of replacing existing costs, creating new, additional organizations, paying salaries, construction of facilities or acquisition of equipment;

4. projects to be funded must augment the Louisiana Economic Development Council's plan and the objectives and strategies of DED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

§7007. Eligibility

An eligible applicant for the grant award can include, but is not limited to, one of the following:

1. an existing regional economic development organization;

2. local chambers of commerce;

3. local economic development organizations;

4. multiparish organizations funded by local governing authorities and the federal government with an agreement signed by parish heads of government authorizing the group to apply for funds under the Regional Initiatives Program;

5. consortium of local economic development organizations as evidenced by a written agreement to enter into a proposal for the purposes of the Regional Initiatives Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

§7009. Criteria

A. Preference will be given to projects that are regional (multiparish) in scope.

B. Projects must have a positive economic impact on at least an entire parish.

C. Preference will be given to projects that enhance, expand or are intended to foster cooperation among both public and private development entities on a regional basis.

D. Preference will be given to rural areas and to proposals from organizations not already receiving economic development funds from the state.

E. No DED award funds can be used to fund ongoing operating costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

§7011. Application Procedure

The applicant must submit an application on a form provided by DED which shall contain, but not be limited to, the following:

1. a narrative proposal (maximum of three pages) that states the objectives and details of the project, what is to be accomplished, the duration of the project, how the proposed

project will have a positive economic impact on the parish or region and how the proposed effort will be continued beyond the funding requested;

2. copy of letter(s) notifying the applicant's local governments, area legislators, and the prevailing economic development organization of intent to apply for R.I.P. funding.

3. quantifiable objectives and deliverables for the project and plans to measure the effectiveness of the project according to those objectives and deliverables;

4. a detailed budget for the project including sources of funds and letters of commitment from the funding sources as well as written commitment of the 25 percent match to be used for the project;

5. résumé(s) of consultants involved with the project;

6. any additional information the secretary may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:428 (March 1998).

§7013. Submission and Review Procedure

A. Applicants must submit their completed application and proposal to the secretary of DED. Submitted applications will be reviewed and evaluated by DED staff. Input may be required from the applicant and other state agencies as needed in order to:

1. evaluate the strategic importance of the project to the economic well-being of the state and region;

2. determine whether the project's funding requirements are best met by the proposed award;

3. validate the information presented;

4. determine the overall feasibility of the applicant's plan.

B. Upon determination that an application meets the eligibility criteria for this program and is deemed to be beneficial to the well-being of the state, DED staff will then make a recommendation to the secretary. If the secretary finds the application complies with the requirements of this program, he may approve the application for funding.

1. No funds spent on the project prior to the secretary's approval will be considered eligible project costs.

2. The secretary will issue a letter of commitment to the applicant within five working days of the application review and approval.

3. The final 10 percent of the award amount will not be paid until DED staff reviews the deliverables of the grant agreement to assure that all work has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:429 (March 1998).

§7015. General Award Provisions

A. Award Agreement. A grant agreement will be executed between DED and the awardee. The agreement will specify the performance objectives and deliverables expected of the awardee and the compliance requirements to be enforced

in exchange for state assistance including, but not limited to, time lines for program completion.

B. Use of Funds

1. Any salary of the applicant related to the project is to be funded through the applicant's match.

2. Project costs ineligible for award funds include, but are not limited to:

a. ongoing operating costs;

b. furniture, fixtures, computers, transportation equipment, rolling stock or equipment.

C. Amount of Award

1. The portion of the total project costs financed by the award may not exceed 75 percent of the total project cost.

2. The applicant shall provide at least 25 percent of the total cost; 12½ percent of the total project cost may be in-kind. For the purposes of this program, in-kind is the use, as a match, of the awardee's own resources to accomplish the goals of the project being funded.

3. The secretary, in his discretion, may limit the amount of awards to effect the best allocation of resources based upon the number of projects requiring funding and the availability of program funds.

D. Conditions for Disbursement of Funds

1. Upon notification of the award by the secretary, the awardee can begin spending funds on the project.

2. Award funds will be available to the awardee upon execution of a grant agreement.

3. Award funds will not be available for disbursement until:

a. DED receives signed commitments by the project's other financing sources (public and private);

b. all other closing conditions specified in the award agreement have been satisfied.

E. Compliance Requirements

1. The awardee shall be required to submit progress reports, as specified in the award agreement, describing the progress toward the performance objectives specified in the award agreement.

2. In the event an awardee fails to meet its performance objectives specified in its agreement with DED, DED shall retain the rights to withhold award funds, to modify the terms and conditions of the award, and to reclaim disbursed funds from the awardee in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state.

3. In the event an awardee knowingly files a false statement in its application or in a progress report, the company or sponsoring entity shall be guilty of the offense of filing false public records and shall be subject to the penalty provided for in R.S. 14:133.

4. DED shall retain the right to require and/or conduct financial and performance audits of a project, including all relevant records and documents of the company and the sponsoring entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2341 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, LR 24:429 (March 1998).

Kevin P. Reilly, Sr.
Secretary

9803#069

RULE

Department of Economic Development Office of the Secretary Division of Economically Disadvantaged Business Development

Economically Disadvantaged Business
Development Program and Small Business
Bonding Program (LAC 19:II.Chapters 1 and 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development hereby amends rules relative to the Economically Disadvantaged Business Development Program.

Title 19

CORPORATIONS AND BUSINESS

Part II. Economically Disadvantaged Business Development Program

Chapter 1. General Provisions

§105. Definitions

When used in these regulations, the following terms shall have meanings as set forth below:

* * *

Economically Disadvantaged Person—a citizen of the United States who has resided in Louisiana for at least one year and whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business, and whose diminished opportunities have precluded, or are likely to preclude, such individual from successfully competing in the open market.

RFP—Request for Proposal.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1759.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998).

§107. Eligibility Requirements for Certification

A. - B. ...

1. Citizenship. The person is a citizen of the United States.

2. Louisiana Residency. The person has resided in Louisiana for at least one year.

3. Net Worth. Each individual owner's personal net worth may not exceed \$150,000.

4. Income. Each individual owner must submit personal federal income tax returns for the past three years.

C. - D.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1751, 1752, and 1754.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998).

Chapter 9. Small Business Bonding Program

§901. Small Business Bonding Assistance

A.1. - 6.d. ...

7. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 23:50 (January 1997), amended LR 24:430 (March 1998).

§903. Direct Bonding Assistance

A. Direct Bonding Assistance. All certified economically disadvantaged construction businesses that have been accredited by the LCAI and all other certified economically disadvantaged businesses (nonconstruction) may be eligible for surety bond guarantee assistance not to exceed the lesser of 25 percent of contract or \$200,000 on any single project. All obligations whether contractual or financial will require the approval of the undersecretary.

B. Application Process

1. Application for surety bond guarantee assistance including contractor or business underwriting data as prescribed by surety companies shall be submitted by agent to the manager of the Bonding Assistance Program (BAP) and surety coordinator.

2. Manager of BAP or designee will:

a. determine and document that business is eligible to participate in program;

b. secure proof that project has been awarded to contractor or business, in the case of performance and payment bonds;

c. determine worthiness of the project based on advice and input from surety coordinator and management construction/risk management company; and

d. make recommendation to executive director as required pertaining to specific project.

C. Surety Companies

1. Criteria for Eligibility and Continuation in the Program. A surety company must have a certificate of authority from and its rates approved by the Department of Insurance, and appear in the most current edition of the *U.S. Treasury Circular 570*.

a. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/Letters of Credit (LC) to a participating surety where the administration finds any of the following:

i. fraud or misrepresentation in any of the sureties business dealings, BAP-related or not;

ii. imprudent underwriting standards;

iii. excessive losses (as compared to other participating sureties);

- iv. failure of a surety to consent to BAP audit;
- v. evidence of discriminatory practices; and
- vi. consideration of other relevant factors.

b. BAP, at its sole discretion, may refuse to recommend the issuance of further guarantees/LC to a participating surety where the Department of Economic Development finds that the surety has failed to adhere to prudent underwriting standards or other practices relative to those of other sureties participating in the BAP. Any surety which has been denied participation in the program may file an appeal, in writing, delivered by certified mail to the secretary of the Department of Economic Development, who will review the adverse action and will render the final decision for the department. Appeals must be received no later than 30 days from the issuance of the executive director's decision.

2. Subsuretyship. A lead or primary surety must be designated by those sureties who desire to bond a contract together. BAP will recommend a guarantee only to one surety. This does not mean that surety agreements cannot be entered. In a default situation, BAP will recommend to indemnify only the lead or primary surety, which will have an indemnification agreement with its re-insurers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:430 (March 1998).

§905. Calculation of Guarantee Fee Deduction

A. Upon the contractor obtaining the RFP or contract for which BAP is guaranteeing a bid, payment or performance bond, the surety shall pay BAP a portion of the bond fee paid by the contractor.

1. The surety underwriter shall pay BAP a bond guarantee fee not to exceed 2 percent of the bond guarantee or LC.

2. BAP will deem acceptable bond premium charges which are:

- a. authorized by the state insurance department rules or by applicable statutes; and
- b. a minimum bond premium regardless of the contract price, if this minimum charge does not exceed \$250 and has been authorized by the appropriate state insurance department.

B. BAP will not recommend approval of an application for a bond guarantee where the surety makes any charge above the standard premium for the bond, except where other services are performed for the contractor and the additional charge or fee is permitted by the appropriate state insurance department.

C. BAP will not approve placement or finder's fees, fees for the use or attempted use of influence in obtaining or trying to obtain a surety bond guarantee or any part thereof. Agents and brokers shall be compensated by surety companies for their efforts through the commission system, based upon fees charged to the applicant contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998).

§907. Management Construction/Risk Management Company

A. Surety may require contractor to engage a management construction/risk management company to do, at a minimum, an independent take off and review of all low bid projects and advise BAP of their findings. Surety may also require contractor to engage a management construction/risk management company to provide the following services:

- 1. review of the initial bond request for compatibility of the contractor with the scope of work as outlined in the solicitation;
- 2. job cost breakdown and bid preparation assistance;
- 3. monitor all projects once awarded. This will include a full (critical path) reporting throughout the life of the contract;
- 4. funds receipt and disbursement through a job-specific account on each project. This will include compliance with all lien waivers, releases and vendor payment verification;
- 5. make itself immediately available for project completion on any defaults at no additional fee to the project cost.

B. Management construction/risk management company engaged by contractor shall be pre-approved by BAP and surety. BAP shall not receive any portion of any fees paid to management construction/risk management company by contractor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998).

§909. Underwriting a BAP Guaranteed Bond

A. In underwriting a BAP guaranteed bond, the surety is required to adhere to the surety industry's general principles and practices used in evaluating the credit and capacity; and is also required to adhere to those rules, principles, and practices as may be published from time to time by the BAP.

B. Once an application for a bond guarantee/LC is received from a contractor, a review will be conducted in order to determine whether the economically disadvantaged business is eligible for BAP's surety bond guarantee assistance. This review will focus on the presence of a requirement for surety bonds and other statutory requirements.

- 1. Bonds
 - a. There must be a specific contract amount in dollars or obligee estimate of the contract amount, in writing, on other than firm fixed price contracts.
 - b. There must be nothing in the contract or the proposed bond that would prevent the surety, at its election, from performing the contract rather than paying the penalty.
 - c. BAP, having guaranteed the bid bond, may refuse to recommend guarantee of the required payment and performance bonds when the actual contract price exceeds the original bid and the higher amount. In such an instance, the

surety would either issue the payment and performance bond without BAP's guarantee, or suffer default in fulfilling the bid bond, which should result in claims against the surety and surety's claim against BAP.

2. Types of Bond Guarantees. BAP guarantees will be limited to certain bid, performance, and payment bonds issued in connection with a contract. Generally bid, performance, and payment bonds listed in the Contract Bonds section, *Rate Manual of Fidelity, Forgery and Surety Bonds*, published by the Surety Association of America, will be eligible for a BAP guarantee. In addition, the BAP guarantee may be expressly extended, in writing, to an ancillary bond incidental to the contract and essential to its performance.

3. Ineligible Bond Situations and Exceptions

a. If the contracted work is already underway, no guarantee will be issued unless the executive director consents, in writing, to an exception.

b. While it should not be a common occurrence, and is in fact to be discouraged, applications for surety bonds may occasionally be submitted for consideration after a job is in process. In such cases, the surety must submit, as part of the application, the following additional information:

i. evidence from the contractor that the surety bond requirement was contained in the original job contract;

ii. adequate documentation as to why a surety bond was not previously secured and is now being required;

iii. certification by contractor: list of all suppliers indicating that they are paid up to date, attaching a waiver of lien from each; that all labor costs are current; that all subcontractors are paid to their current position of work and a waiver of lien from each;

iv. certification by obligee that the job has been satisfactorily completed to present status; and

v. certification from the architect or engineer that the job is in compliance with plans and specifications; and is satisfactory to the present.

c. There are prepared forms published by the American Institute of Architects (AIA), which may be used for the purposes listed above.

C. The surety must satisfy to BAP that there is reasonable expectation that the economically disadvantaged business will perform the covenants and conditions of the contract with respect to which a bond is required. BAP's evaluation will consider the economically disadvantaged business' experience, reputation, and its present and projected financial condition. Finally, BAP must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the contract. The BAP's determination will take into account the standards and principles of the surety industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:431 (March 1998).

§911. Guarantee

A. Amount of Guarantee. Providing collateral in the form of an irrevocable letter of credit to the surety may be posted

on an individual project basis at the discretion of the Department of Economic Development.

B. Surety Bond Guarantee Agreement

1. Terms and Conditions

a. The *guarantee agreement* is made exclusively for the benefit of BAP and the surety; it does not confer any rights or benefits on any other party including any right of action against BAP by any person claiming under the bond. When problems occur on a contract substantive enough to involve the surety, the surety is authorized to take actions it deems necessary. Regardless of the extent or outcome of surety's involvement, the surety's services, including legal fees and other expenses, will be chargeable to the contractor unless otherwise settled.

b. Any agreement by BAP to guarantee a surety bond issued by a surety company shall contain the following terms and conditions:

i. the surety represents that the bond or bonds being issued are appropriate to the contract requiring them;

ii. the surety represents that the terms and conditions of the bond or bonds executed are in accordance with those generally used by the surety for the type of bond or bonds involved;

iii. the surety affirms that without the BAP guarantee to surety, it will not issue the bond or bonds to the principal;

iv. the surety shall take all steps necessary to mitigate any loss resulting from principal's default;

v. the surety shall inform BAP of any suit or claim filed against it on any guaranteed bond within 30 days of surety's receipt of notice thereof. Unless BAP decides otherwise, and so notifies surety within 30 days of BAP's receipt of surety's notice, surety shall take charge of the suit for claim and compromise, settle or defend such suit or claim until so notified. BAP shall be bound by the surety's actions in such matters;

vi. the surety shall not join BAP as a third party in any lawsuit to which surety is a party unless BAP has denied liability in writing or BAP has consented to such joinder; and

vii. the surety shall pay BAP a portion of the bond premium in accordance with BAP rules.

c. When contractor successfully completes bonded job a status inquiry report is signed by appropriate parties and is forwarded to surety's collateral department. Surety shall release standby letter of credit within 90 days of recordation of acceptance date shown on status inquiry report.

d. Variances. The terms and conditions of BAP's guarantee commitment or actual bond guarantee may vary from surety to surety and contract to contract depending on BAP's experiences with a particular surety and other relevant factors. In determining whether BAP's experience with a surety warrants terms and conditions which may be at variance with terms and conditions applicable to another surety, BAP will consider, among other things, the adequacy of the surety's underwriting; the adequacy of the surety's substantiation and documentation of its claims practice; the surety's loss ration and its efforts to minimize loss on BAP guaranteed bonds; and other factors. Any surety which deems itself adversely affected by the executive director's exercise of the foregoing authority

may file an appeal with the secretary of the Department of Economic Development. The secretary will render the final decision.

2. Reinsurance Agreement. In all guarantee situations, BAP agrees to reimburse the participating surety up to the agreed-upon percentage of any and all losses incurred by virtue of default on a particular contract. The participating surety agrees to handle all claims, with recoveries being shared on a pro rata basis with BAP. This includes reinsurance agreements between the surety and any other licensed surety or reinsurance company. In other words, no indemnity agreement can be made to inure solely to the benefit of the surety to recover its exposure on any bond guarantee by BAP without BAP participating in its pro rata share.

3. Default

a. Notice of Default. Ordinarily, BAP first is notified by the surety that a particular contractor is in trouble. Where BAP receives information from other sources indicating a contractor is in trouble, the information is to be relayed to the surety for its information and appropriate action.

b. Default Claims, Indemnity Pursuit, and Settlement

i. The sole authority and responsibility in BAP for handling claims arising from a contractor's default on a surety bond guaranteed by the BAP shall remain with the executive director and undersecretary relative to BAP's guarantee. The executive director and undersecretary will process and negotiate all claim matters with surety company representatives.

ii. In those situations where BAP's share is \$500 or less, the surety shall notify the contractor, by letter, of its outstanding debt with no further active pursuit undertaken by the surety for which BAP would be requested to reimburse.

iii. In those situations where BAP's share is over \$500 through \$2,500, the surety shall promptly develop financial background information on the debtor contractor. These findings will determine whether it is economically justified to further pursue indemnity recovery or to close the file. The surety shall strongly consider the use of a collection agency versus attorneys on all indemnity actions, if it appears feasible and economically beneficial.

iv. In those situations where BAP's share is over \$2,500, the surety shall pursue recovery through its normal method, assessing and comparing the estimated cost of recovery efforts with the probable monetary gain from the effort prior to exercising its rights under LC.

v. The surety shall advise BAP of attempts made to contact indemnitor or to attach other assets, and the outcome of these attempts. The surety shall insure that BAP is credited with its respective apportionment of all recovery within 90 days of the recovery.

vi. At the culmination of subrogation and indemnity recovery efforts, the surety shall notify the obligor of the total amount outstanding. A copy of the notice sent to the contractor shall be promptly forwarded to the BAP. After recovery efforts have been exhausted, the surety and BAP will make final reconciliation on the defaulted case, and close the file on that

particular contractor's project. Prior to closing the file, surety shall conduct a recapitulation of the account to assure that BAP has been correctly credited with all funds recovered from any and all sources.

vii. Under the terms and conditions of the surety bond guarantee agreement, the authority to act upon proposed settlement offers in connection with defaulted surety bonds lies with the surety, not with the BAP. A settlement occurs when a defaulted contractor and its surety agree upon a total amount and/or conditions which will satisfy the contractor's indebtedness to the surety, and which will result in closing the loss file. The surety must pay BAP its pro rata share of such settlement. BAP, immediately upon receipt of same, closes the file.

4. Reinstatement. A contractor's contractual relationship is with the surety company. Therefore, all matters pertaining to reinstatement must be arranged with and through the surety. BAP's contractual relationship is with the surety company only. Because of these relationships, BAP will neither negotiate nor discuss with a contractor amounts owed the surety by the contractor, or settlement thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:432 (March 1998).

§913. Audits

At all reasonable times, BAP or designee may audit the office of either a participating agency, its attorneys, or the contractor or subcontractor completing the contract, all documents, files, books, records and other material relevant to the surety bond guarantee commitments. Failure of a surety to consent to such an audit will be grounds for BAP to refuse to issue further surety guarantees until such time as the surety consents to such audit. However, when BAP has so refused to issue further guarantees the surety may appeal such action to the secretary of the Department of Economic Development. All appeals must be in writing and delivered by certified mail within 30 days of receiving the executive director's written issuance of notice that no further guarantees will be issued. Otherwise the executive director's decision becomes final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998).

§915. Ancillary Authority

The executive director, with the approval of the undersecretary, will have the authority to commit funds and enter into agreements which are consistent with and further the goals of this program. This authority would include, but not be limited to, designating a pool of funds upon which only a particular surety has recourse to, in the event of a contractor default.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1753.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of the Secretary, Division of Economically Disadvantaged Business Development, LR 24:433 (March 1998).

Henry Stamper
Executive Director

9803#040

RULE

Board of Elementary and Secondary Education

Bulletin 1794—Textbook
Grievance Procedure (LAC 28:I.919)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Board of Elementary and Secondary Education has amended Bulletin 1794, referenced in LAC 28:I.919. The amendments add a grievance procedure incorporated into the bid invitation.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education Chapter 9. Bulletins, Regulations, and State Plans Subchapter A. Bulletins and Regulations

§919. Textbook Adoption Standards and Procedures

A. Bulletin 1794

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:434 (March 1998).

Bulletin 1794—Textbook Adoption Policies and Procedures

* * *

Chapter 10. State Encyclopedias and Encyclopedic Reference Adoption Procedures

A. - F. ...

(Editor's Note: the following unedited Subsection G is being published as originally submitted to the Office of the State Register, at the request of the agency.)

G. Hearing Process

Annually, the state reference adoption hearings shall be held the first week of December. Publishers responding to the invitation to bid will be given an opportunity to present their materials to the state committee. Publishers responding to the invitations to bid but not requesting time before the state committee materials must be reviewed and evaluated during the hearings, just as if there were a representative present. Materials are reviewed and evaluated on the state criteria, not oral presentations.

The hearing process begins with an in-service training session for all committee members, followed by publishers' presentations. All committee members are expected to be in attendance for the duration of the hearings (normally four days).

At the conclusion of presentations each day, committee members will discuss the materials presented, entertain questions, exchange comments, then prepare to vote.

At the time of the vote, publishers are allowed to witness the vote but are not allowed to make comments. Materials receiving a majority vote (nine) of the committee are recommended to the Board of Elementary and Secondary Education for approval. Materials receiving less than a majority vote (nine) of the committee are not recommended to the Board of Elementary and Secondary Education for approval. For all materials not recommended by the committee, the reason(s) for rejection must be given.

Publishers who have had materials rejected by this process will be so notified within one week of the end of the reference adoption hearings. Those who wish to appeal the committee's decision, or who otherwise wish to express a grievance relating to the adoption process, shall have 30 days from this notification deadline to make a written request to appear on the agenda of the next textbook and media committee meeting of the State Board of Elementary and Secondary Education. The textbook and media committee shall schedule and hear any such appeals or grievances and pass its recommendations on to the full board.

H. - J. ...

Weegie Peabody
Executive Director

9803#041

RULE

Board of Elementary and Secondary Education

Bulletin 1868—Personnel Manual (LAC 28:I.922)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revised Bulletin 1868, BESE Personnel Manual. Revisions to the manual were developed as a result of federal and state mandates, board action, or reworded for clarification as a result of using the manual. It should be noted that the clause "exclusive of the central office staff" which appeared after Special School District Number 1 has been eliminated from the bulletin. The salary schedule for technical colleges has been deleted from the bulletin.

Copies of this bulletin have been provided to all entities under the jurisdiction of the Board of Elementary and Secondary Education and listed below:

- 1) each technical college;
- 2) BESE's special schools—Louisiana School for the Deaf, Louisiana School for the Visually Impaired, Louisiana Special Education Center;
- 3) each site operated by Special School District Number 1;
- 4) Louisiana Association of Educators and Louisiana Federation of Teachers.

Bulletin 1868 is referenced at LAC 28:922.A.

A printed copy of the bulletin may be seen in the Office of the State Register, located on the fifth floor of the Capitol Annex; in the office of the State Board of Elementary and Secondary Education, located in the Education Building in Baton Rouge; in the Office of Vocational Education; or in the

office of Special School District Number 1 located on the third floor of the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:43 and 17:540.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 24:434 (March 1998).

Weegie Peabody
Executive Director

9803#072

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Bylaws of the Advisory Committee to the
Student Financial Assistance Commission

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021, et seq., in compliance with §952 of the Administrative Procedure Act, hereby adopts bylaws to govern the Advisory Committee to the commission, its meetings, officers and executive staff, order of business, committees, communications to the commission, rights, duties and responsibilities of the executive staff, responsibilities of commission members, amendment or repeal of bylaws, rules and regulations.

Article I. Purpose and Authority

Section 1. Purpose of the Committee

The purpose of the advisory committee shall be to consider those matters relating to student financial assistance programs that, from time to time, shall be referred to it by the Louisiana Student Financial Assistance Commission (LASFAC) or its executive staff, and to provide technical advice and recommendations to the commission and its staff on such matters. In establishing the committee, the commission seeks to ensure that its programs are administered to the maximum benefit of Louisiana's students and institutions of higher education, both public and private.

Section 2. Authority of the Committee

The advice and recommendations of the committee are only advisory in nature and are not binding upon the commission, its members or officers. All such advice and recommendations offered by the committee shall, insofar as possible, represent the consensus of the Louisiana Association of Student Financial Aid Administrators (LASFAA).

Article II. Meetings

Section 1. Regular Meetings

The committee shall hold regular meetings which are limited in number to six per year. All regular meetings shall be held at the meeting place designated by the executive director of the Office of Student Financial Assistance (OSFA). Proxy voting shall be permitted provided that the proxy holder is an officer or employee of the organization represented by the appointed

member and that a proxy does not represent the appointed member at more than two of the meetings scheduled annually.

Section 2. Special Meetings

Special meetings of the committee may be called by the executive director of the Office of Student Financial Assistance at any time, provided the purposes of the meeting are specified, the members notified at least three calendar days before the time of the meeting, and sufficient members to form a quorum confirm their planned attendance.

Section 3. Compensation

Members of the committee shall be reimbursed for their travel expenses incurred in attending meetings, in accordance with applicable state travel regulations. No other compensation is authorized.

Section 4. Quorum

Five voting members of the committee shall constitute a quorum for the transaction of business and a simple majority of the members present at any meeting voting for or against a particular item shall be the recommendation of the committee.

Article III. Membership and Officers of the Committee

Section 1. Membership

The committee shall be composed of 10 members, eight of whom shall be appointed by the Louisiana Association of Student Financial Aid Administrators (LASFAA) from its membership, subject to confirmation by the Louisiana Student Financial Assistance Commission. The criteria for LASFAA's selection of members shall be defined by that organization but said criteria shall ensure that appointees adequately represent LASFAA's membership. The term of all members appointed by LASFAA and confirmed by the commission shall be for two years and members may not serve two consecutive terms. Beginning in October 1997, 50 percent or four of the non-ex officio members of the committee shall be appointed annually to provide for staggered terms of the regular membership. The executive director of the Office of Student Financial Assistance shall be an ex officio, nonvoting member of the committee. The president of LASFAA shall be an ex officio, voting member.

Section 2. Chairman and Vice-Chairman

The committee chairman shall be designated annually by the president of LASFAA, from among the serving or newly appointed committee members. The committee shall annually elect a vice-chairman from its membership. The chairman of the committee shall preside over all meetings of the committee, serve as ex officio member of all subcommittees, designate the duties of the vice-chairman, appoint the membership of all subcommittees, and present the committee's recommendations to the commission for its consideration. The vice-chairman shall perform the duties of the chairman in the chairman's absence.

Section 3. Ex Officio Member, the Executive Director of the Office of Student Financial Assistance (OSFA)

The executive director of the Office of Student Financial Assistance shall:

- a. ensure that the functions of the committee promote the purpose for which it was established and that the committee is in conformity with all applicable statutes and rules and regulations of the commission;
- b. prepare the business agenda;

- c. provide administrative support to the committee within the resources of his/her office allocated for that purpose;
- d. approve the travel of committee members;
- e. in the absence of the committee chairman or vice-chairman, present the recommendations of the committee to the commission; and
- f. in conjunction with the chairman, schedule meetings of the committee.

Article IV. Business Rules

Section 1. Rules of Order

When not in conflict with any of the provisions of these bylaws, *Roberts' Rules of Order* shall constitute the rules of parliamentary procedure applicable to all meetings of the committee.

Section 2. Order of Business

The order of business of regular meetings of the committee shall be as follows:

- a. roll call;
- b. corrections and approval of minutes of the preceding regular meeting and of all special meetings held subsequent thereto;
- c. reports and recommendations of subcommittees;
- d. unfinished business; and
- e. new business.

Section 3. Meetings

Meetings shall be conducted in accordance with the state law governing public bodies. It shall be the policy of the committee that all meetings are open to the public and that parties with interest in the proceedings are encouraged to attend.

Section 4. Agenda

Prior to each regular or special meeting of the committee, the executive director of OSFA shall prepare a tentative agenda and forward it to each member of the committee at least five working days prior to such meeting. With the concurrence of its members, all matters supportive of the purpose of the committee may be discussed even though not scheduled on the agenda. The agenda shall be used to focus the committee's deliberations on issues of importance to the commission and it is not intended to inhibit discussion of issues of importance to members that fall within the committee's purpose.

Section 5. Minutes

At a minimum, the minutes of the committee shall record official motions or recommendations that are voted on by the committee. The minutes may contain a summary of reports and pertinent discussion of issues. Each recommendation shall be reduced to writing and presented to the committee before it is acted on. The minutes of meetings of the committee become official when approved by the committee at its next scheduled meeting but, prior to such occurrence, the minutes may be presented to the commission by the chairman, vice-chairman, or executive director as the unofficial action of the committee.

Section 6. Meeting Attendance

Members unable to continue their service on the committee shall so notify the chairman and the president of LASFAA and

request that a replacement be named. Members who fail to regularly attend meetings without just cause, as determined by the chairman, may be removed from membership by the president of LASFAA, upon the recommendation of the chairman.

Section 7. Subcommittees

Subcommittees may be appointed by the chairman to perform specific functions defined by the committee. The membership, chairmanship, and function of subcommittees shall be determined by the chairman. Generally, the business rules defined herein shall be applicable to subcommittees.

Article V. Approval and Amendment of Bylaws

Section 1. Approval of Bylaws

To receive the commission's consideration, committee bylaws must be favorably recommended by the committee and the executive director of OSFA. Bylaws become effective upon approval by the commission.

Section 2. Amendments to Bylaws

The committee, at any of its scheduled regular meetings, may recommend the amendment or repeal of the provisions herein upon a simple majority vote of the entire membership of the committee.

Jack L. Guinn
Executive Director

9803#011

RULE

**Tuition Trust Authority
Office of Student Financial Assistance**

Student Tuition Assistance and Revenue Trust
(START) Saving Program—1997 Enrollment Period
(LAC 28:VI.301)

The Louisiana Tuition Trust Authority (LATTA) hereby revises the Student Tuition Assistance and Revenue Trust (START) Saving Program 1997 enrollment period. Section 301.B.1 of the Student Tuition Assistance and Revenue Trust (START) Saving Program (LAC 28:VI.301) is revised to read as follows.

**Title 28
EDUCATION**

**Part VI. Student Financial Assistance—Higher
Education Savings**

Chapter 3. Education Savings Account

§301. Education Assistance Account (EAA)

* * *

B. Program Enrollment Period

1. All eligible beneficiaries during 1997 may be enrolled between July 1 and December 1, 1997. Thereafter, all eligible beneficiaries may be enrolled between July 1 and November 1 of each year.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:713 (June 1997), amended LR 24:436 (March 1998).

Jack L. Guinn
Executive Director

9803#010

RULE

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Appraisal (LAC 46:LX.503)

The Licensed Professional Counselors Board of Examiners, under the authority of the Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends the following to include the definition of "Appraisal":

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Chapter 5. License and Practice of Counseling

§503. Definitions

For purposes of this rule, the following definitions will apply.

Board—the Louisiana Licensed Professional Counselors Board of Examiners

Licensed Professional Counselor—any person who holds himself out to the public for a fee or other personal gain, by any title or description of services incorporating the words "licensed professional counselor" or any similar term, and who offers to render professional mental health counseling services denoting a client-counselor relationship in which the counselor assumes responsibility for knowledge, skill, and ethical considerations needed to assist individuals, groups, organizations, or the general public, and who implies that he is licensed to practice mental health counseling.

Mental Health Counseling Services—those acts and behaviors coming within the "practice of mental health counseling" as defined in R.S. 37:1103. However, nothing in these rules shall be construed to authorize any person licensed hereunder to administer or interpret psychological tests or engage in the practice of psychology in accordance with the provisions of R.S. 37:2352(5).

Practice of Mental Health Counseling—rendering or offering to individuals, groups, organizations, or the general public by a licensed professional counselor, any service consistent with his professional training as prescribed by R.S. 37:1107(A)(8), and code of ethics/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which include but are not limited to:

a. *Mental Health Counseling*—assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to

plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers.

i. *Mental Health Counseling Practicum*. Licensure requires the completion of a mental health counseling practicum totaling 100 clock hours. The practicum includes:

(a). a minimum of 40 hours of direct counseling with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or supervisor working under the supervision of a program faculty member;

(c). a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements established by the university.

ii. *Mental Health Counseling Internship*. Licensure requires the completion of a mental health counseling internship totaling 300 clock hours. The internship includes:

(a). a minimum of 120 hours of direct counseling with individuals or groups;

(b). a minimum of one hour per week of individual supervision by a counseling faculty member supervisor or an LPC working in conjunction with the faculty member;

(c). a minimum of one and one-half hours per week of group supervision with other students in similar practica or internships by a program faculty member supervisor or a student supervisor working under the supervision of a program faculty member or an approved on-site supervisor that meets the on-site supervisor requirements by the university.

b. *Consulting*—interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations.

c. *Referral Activities*—the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities*—reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. *Appraisal*—

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting client progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas:

(a). abilities—those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b). interests—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations,

intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). aptitudes—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use tests of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in Chapter 5. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences. Formal training shall include a practicum and supervised practice with appraisal instruments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Licensed Professional Counselors Board of Examiners, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:303 (April 1990), LR 18:51 (January 1992), LR 22:102 (February 1996), LR 24:437 (March 1998).

Gary S. Grand
Chairman

9803#018

RULE

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Code of Conduct (LAC 46:LX.Chapter 21)

The Licensed Professional Counselors Board of Examiners, under authority of the Mental Health Counselor Licensing Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends its present Code of Conduct to be consistent with the new American Counseling Association Code of Ethics which became effective for the association on July 1, 1995, as the ethical rules governing the practice of mental health counseling in the state of Louisiana.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Chapter 21. Code of Conduct

§2101. Preamble

A. The Licensed Professional Counselors Board of Examiners is dedicated to the enhancement of the worth, dignity, potential, and uniqueness of each individual in the state of Louisiana.

B. Specification of a code of conduct enables the board to clarify to present and future counselors and to those served by counselors the responsibilities held in common by persons practicing mental health counseling.

C. *Mental Health Counseling*, as defined in the licensure law, is "assisting an individual or group, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan actions reflecting his or their interests, abilities, aptitudes, and needs as these are related to personal and social concerns, educational progress, and occupations and careers."

D. The existence of this code of conduct serves to govern the practice of mental health counseling and the professional functioning of the Licensed Professional Counselors Board of Examiners in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:438 (March 1998).

§2103. The Counseling Relationship

A. Client Welfare

1. Primary Responsibility. The primary responsibility of counselors shall be to respect the dignity and to promote the welfare of clients.

2. Positive Growth and Development. Counselors shall encourage client growth and development in ways that foster the clients' interest and welfare; counselors shall avoid fostering dependent counseling relationships.

3. Counseling Plans. Counselors and their clients shall work jointly in devising integrated, individual counseling plans that offer reasonable promise of success and are consistent with abilities and circumstances of clients. Counselors and clients shall regularly review counseling plans to ensure their continued viability and effectiveness, respecting clients' freedom of choice.

4. Family Involvement. Counselors shall recognize that families are usually important in clients' lives and shall strive to enlist family understanding and involvement as a positive resource, when appropriate.

5. Career and Employment Needs. Counselors shall work with their clients in considering employment in jobs and circumstances that are consistent with the clients' overall abilities, vocational limitations, physical restrictions, general temperament, interest and aptitude patterns, social skills, education, general qualifications, and other relevant characteristics and needs. Counselors shall neither place nor participate in placing clients in positions that will result in

damaging the interest and the welfare of clients, employers, or the public.

B. Respecting Diversity

1. **Nondiscrimination.** Counselors shall not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic status.

2. **Respecting Differences.** Counselors shall actively attempt to understand the diverse cultural backgrounds of the clients with whom they work. This includes, but is not limited to, learning how the counselor's own cultural/ethnic/racial identity impacts her/his values and beliefs about the counseling process.

C. Client Rights

1. **Disclosure to Clients.** When counseling is initiated, and throughout the counseling process as necessary, counselors shall inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed, and other pertinent information. Counselors shall take steps to ensure that clients understand the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients shall have the right to expect confidentiality and to be provided with an explanation of its limitations, including supervision and/or treatment team professionals; to obtain clear information about their case records; to participate in the ongoing counseling plans; and to refuse any recommended services and be advised of the consequences of such refusal.

2. **Freedom of Choice.** Counselors shall offer clients the freedom to choose whether to enter into a counseling relationship and to determine which professional(s) will provide counseling. Restrictions that limit choices of clients shall be fully explained.

3. **Inability to Give Consent.** When counseling minors or persons unable to give voluntary informed consent, counselors shall act in these clients' best interests.

D. **Clients Served by Others.** If a client is receiving services from another mental health professional, counselors, with client's consent, shall inform the professional persons already involved and develop clear agreements to avoid confusion and conflict for the client.

E. Personal Needs and Values

1. **Personal Needs.** In the counseling relationship, counselors shall be aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and shall avoid actions that seek to meet their personal needs at the expense of clients.

2. **Personal Values.** Counselors shall be aware of their own values, attitudes, beliefs, and behaviors and how these apply in a diverse society, and shall avoid imposing their values on clients.

F. Dual Relationships

1. **Avoid When Possible.** Counselors shall be aware of their influential positions with respect to clients, and they shall avoid exploiting the trust and dependency of clients. Counselors shall make every effort to avoid dual relationships with clients that could impair professional judgement or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, or close

personal relationships with clients.) When a dual relationship cannot be avoided, counselors shall take appropriate professional precautions such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs.

2. **Superior/Subordinate Relationships.** Counselors shall not accept as clients superiors or subordinates with whom they have administrative, supervisory, or evaluative relationships.

G. Sexual Intimacies with Clients

1. **Current Clients.** Counselors shall not have any type of sexual intimacies with clients and shall not counsel persons with whom they have had a sexual relationship.

2. **Former Clients.** Counselors shall not engage in sexual intimacies with former clients within a minimum of two years after terminating the counseling relationship. Counselors who engage in such relationship after two years following termination shall have the responsibility to thoroughly examine and document that such relations did not have an exploitative nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client, and actions by the counselor suggesting a plan to initiate a sexual relationship with the client after termination.

H. **Multiple Clients.** When counselors agree to provide counseling services to two or more persons who have a relationship (such as husband and wife, or parents and children), counselors shall clarify, at the outset, which person or persons are clients and the nature of the relationships they will have with each involved person. If it becomes apparent that counselors may be called upon to perform potentially conflicting roles, they shall clarify, adjust, or withdraw from roles appropriately.

I. Group Work

1. **Screening.** Counselors shall screen prospective group counseling/therapy participants. To the extent possible, counselors shall select members whose needs and goals are compatible with goals of the group, who will not impede the group process, and whose well-being will not be jeopardized by the group experience.

2. **Protecting Clients.** In a group setting, counselors shall take reasonable precautions to protect clients from physical or psychological trauma.

J. Fees and Bartering

1. **Advance Understanding.** Counselors shall clearly explain to clients, prior to entering the counseling relationship, all financial arrangements related to professional services including the use of collection agencies or legal measures for nonpayment.

2. **Establishing Fees.** In establishing fees for professional counseling services, counselors shall consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance shall be provided in attempting to find comparable services of acceptable cost.

3. **Bartering Discouraged.** Counselors shall ordinarily refrain from accepting goods or services from clients in return for counseling services because such arrangements create inherent potential for conflicts, exploitation, and distortion of

the professional relationship. Counselors may participate in bartering only if the relationship is not exploitive, if the client requests it, if a clear written contract is established, and if such arrangements are an accepted practice among professionals in the community.

4. Pro Bono Service. Counselors shall contribute to society by devoting a portion of their professional activity to services for which there is little or no financial return (pro bono).

K. Termination and Referral

1. Abandonment Prohibited. Counselors shall not abandon or neglect clients in counseling. Counselors shall assist in making appropriate arrangements for the continuation of treatment, when necessary, during interruptions such as vacations, and following termination.

2. Inability to Assist Clients. If counselors determine an inability to be of professional assistance to clients, they shall avoid entering or immediately terminate a counseling relationship. Counselors shall be knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors shall discontinue the relationship.

3. Appropriate Termination. Counselors shall terminate a counseling relationship, securing client agreement when possible, when it is reasonably clear that the client is no longer benefiting; when services are no longer required; when counseling no longer serves the client's needs or interests; or when agency or institution limits do not allow provision of further counseling services.

L. Computer Technology

1. Use of Computers. When computer applications are used in counseling services, counselors shall ensure that:

- a. the client is intellectually, emotionally, and physically capable of using the computer application;
- b. the computer application is appropriate for the needs of the client;
- c. the client understands the purpose and operation of the computer applications;
- d. a follow-up of client use of a computer application is provided to correct possible misconceptions, discover inappropriate use, and assess subsequent needs.

2. Explanation of Limitations. Counselors shall ensure that clients are provided information as a part of the counseling relationship that adequately explains the limitations of computer technology.

3. Access to Computer Applications. Counselors shall provide for equal access to computer applications in counseling services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:438 (March 1998).

§2105. Confidentiality

A. Right to Privacy

1. Respect for Privacy. Counselors shall respect their clients' right to privacy and avoid illegal and unwarranted disclosures of confidential information.

2. Client Waiver. The right to privacy may be waived by

the client or their legally recognized representative.

3. Exceptions. The general requirement that counselors shall keep information confidential does not apply when disclosure is required to prevent clear and imminent danger to the client or others or when legal requirements demand that confidential information be revealed. Counselors shall consult with other professionals when in doubt as to the validity of an exception.

4. Contagious, Fatal Diseases. A counselor who receives information confirming that a client has a disease commonly known to be both communicable and fatal shall be justified in disclosing information to an identifiable third party who, by his or her relationship with the client, is at a high risk of contracting the disease. Prior to making a disclosure the counselor shall ascertain that the client has not already informed the third party about his or her disease and that the client is not intending to inform the third party in the immediate future.

5. Court Ordered Disclosure. When court ordered to release confidential information without a client's permission, counselors shall request to the court that the disclosure not be required due to potential harm to the client or counseling relationship.

6. Minimal Disclosure. When circumstances require the disclosure of confidential information, only essential information shall be revealed. To the extent possible, clients shall be informed before confidential information is disclosed.

7. Explanation of Limitations. When counseling is initiated and throughout the counseling process as necessary, counselors shall inform clients of the limitations of confidentiality and identify foreseeable situations in which confidentiality must be breached.

8. Subordinates. Counselors shall make every effort to ensure that privacy and confidentiality of clients are maintained by subordinates including employees, supervisees, clerical assistants, and volunteers.

9. Treatment Teams. If client treatment will involve a continued review by a treatment team, the client shall be informed of the team's existence and composition.

B. Groups and Families

1. Group Work. In group work, counselors shall clearly define confidentiality and the parameters for the specific group being entered, explain its importance, and discuss the difficulties related to confidentiality involved in group work. The fact that confidentiality cannot be guaranteed shall be clearly communicated to group members.

2. Family Counseling. In family counseling, information about one family member shall not be disclosed to another member without permission. Counselors shall protect the privacy rights of each family member.

C. Minor or Incompetent Clients. When counseling clients who are minors or individuals who are unable to give voluntary, informed consent, parents or guardians shall be included in the counseling process as appropriate. Counselors shall act in the best interests of clients and take measures to safeguard confidentiality.

D. Records

1. Requirement of Records. Counselors shall maintain records necessary for rendering professional services to their

clients and as required by laws, regulations, or agency or institution procedures.

2. Confidentiality of Records. Counselors shall be responsible for securing the safety and confidentiality of any counseling records they create, maintain, transfer, or destroy whether the records are written, taped, computerized, or stored in any other medium.

3. Permission to Record or Observe. Counselors shall obtain permission from clients prior to electronically recording or observing sessions.

4. Client Access. Counselors shall recognize that counseling records are kept for the benefit of clients, and therefore shall provide access to records and copies of records when requested by competent clients, unless the records contain information that may be misleading and detrimental to the client. In situations involving multiple clients, access to records shall be limited to those parts of records that do not include confidential information related to another client.

5. Disclosure or Transfer. Counselors shall obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in §2105.A. Steps shall be taken to ensure that receivers of counseling records are sensitive to their confidential nature.

E. Research and Training

1. Data Disguise Required. Use of data derived from counseling relationships for purposes of training, research, or publication shall be confined to content that is disguised to ensure the anonymity of the individuals involved.

2. Agreement for Identification. Identification of a client in a presentation or publication shall be permissible only when the client has reviewed the material and has agreed to its presentation or publication.

F. Consultation

1. Respect for Privacy. Information obtained in a consulting relationship shall be discussed for professional purposes only with persons clearly concerned with the case. Written and oral reports shall present data germane to the purposes of the consultation, and every effort shall be made to protect client identity and avoid undue invasion of privacy.

2. Cooperating Agencies. Before sharing information, counselors shall make efforts to ensure that there are defined policies in other agencies serving the counselor's clients that effectively protect the confidentiality of information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:623 (August 1989), amended LR 24:440 (March 1998).

§2107. Professional Responsibility

A. Standards Knowledge. Counselors shall have a responsibility to read, understand, and follow the Code of Ethics and the Standards of Practice.

B. Professional Competence

1. Boundaries of Competence. Counselors shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall demonstrate a commitment to

gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population. The Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

2. New Specialty Areas of Practice. Counselors shall practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors shall take steps to ensure the competence of their work and to protect others from possible harm. The Licensed Professional Counselors Board of Examiners shall require their licensees to submit to this board a written statement of new area(s) of intended practice along with supporting documentation of qualifications for the respective area(s) in which practice is intended.

3. Qualified for Employment. Counselors shall accept employment only for positions for which they are qualified by education, training, supervised experience, state and national professional credentials, and appropriate professional experience. Counselors shall hire for professional counseling positions only individuals who are qualified and competent.

4. Monitor Effectiveness. Counselors shall continually monitor their effectiveness as professionals and take steps to improve when necessary. Counselors in private practice shall take reasonable steps to seek out peer supervision to evaluate their efficacy as counselors.

5. Ethical Issues Consultation. Counselors shall take reasonable steps to consult with other counselors or related professionals when they have questions regarding their ethical obligations or professional practice.

6. Continuing Education. Counselors shall recognize the need for continuing education to maintain a reasonable level of awareness of current scientific and professional information in their fields of activity. They shall take steps to maintain competence in the skills they use, are open to new procedures, and keep current when the diverse and/or special populations with whom they work.

7. Impairment. Counselors shall refrain from offering or accepting professional services when their physical, mental, or emotional problems are likely to harm a client or others. They shall be alert to the signs of impairment, seek assistance for problems, and, if necessary, limit, suspend, or terminate their professional responsibilities.

C. Advertising and Soliciting Clients

1. Accurate Advertising. There are no restrictions on advertising by counselors except those that can be specifically justified to protect the public from deceptive practices. Counselors shall advertise or represent their services to the public by identifying their credentials in an accurate manner that is not false, misleading, deceptive, or fraudulent. Counselors shall only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited by one of the regional accrediting bodies recognized by the Council on Postsecondary Accreditation at the time the degree was awarded.

2. Testimonials. Counselors who use testimonials shall not solicit them from clients or other persons who, because of their particular circumstances, may be vulnerable to undue influence.

3. Statements by Others. Counselors shall make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

4. Recruiting through Employment. Counselors shall not use their places of employment or institutional affiliation to recruit or gain clients, supervisees, or consultees for their private practices.

5. Products and Training Advertisements. Counselors who develop products related to their profession or conduct workshops or training events shall ensure that the advertisements concerning these products or events are accurate and disclose adequate information for consumers to make informed choices.

6. Promoting to Those Served. Counselors shall not use counseling, teaching, training, or supervisory relationships to promote their products or training events in a manner that is deceptive or would exert undue influence on individuals who may be vulnerable. Counselors may adopt textbooks they have authored for instruction purposes.

7. Professional Association Involvement. Counselors shall actively participate in local, state, and national associations that foster the development and improvement of counseling.

D. Credentials

1. Credentials Claimed. Counselors shall claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others. Professional credentials shall include graduate degrees in counseling or closely related mental health fields, accreditation of graduate programs, national voluntary certifications, government-issued certifications or licenses, ACA professional membership, or any other credential that might indicate to the public specialized knowledge or expertise in counseling.

2. ACA Professional Membership. ACA professional members may announce to the public their membership status. Regular members shall not announce their ACA membership in a manner that might imply they are credentialed counselors.

3. Credential Guidelines. Counselors shall follow the guidelines for use of credentials that have been established by the entities that issue the credentials.

4. Misrepresentation of Credentials. Counselors shall not attribute more to their credentials than the credentials represent, and shall not imply that other counselors are not qualified because they do not possess certain credentials.

5. Doctoral Degrees from Other Fields. Counselors who hold a master's degree in counseling or a closely related mental health field, but hold a doctoral degree from other than counseling or a closely related field shall not use the title, "Dr." in their practices and shall not announce to the public in relation to their practice or status as a counselor that they hold a doctorate.

E. Public Responsibility

1. Nondiscrimination. Counselors shall not discriminate against clients, students, or supervisees in a manner that has a negative impact based on their age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status, or for any other reason.

2. Sexual Harassment. Counselors shall not engage in sexual harassment.

a. *Sexual Harassment*—sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, that occurs in connection with professional activities or roles, and that either:

i. is unwelcome, is offensive, or creates a hostile workplace environment, and counselors know or are told this;

ii. is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context.

b. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

3. Reports to Third Parties. Counselors shall be accurate, honest, and unbiased in reporting their professional activities and judgments to appropriate third parties including courts, health insurance companies, those who are the recipients of evaluation reports, and others.

4. Media Presentations. When counselors provide advice or comment by means of public lectures, demonstrations, radio or television programs, prerecorded tapes, printed articles, mailed material, or other media, they shall take reasonable precautions to ensure that:

a. the statements are based on appropriate professional counseling literature and practice;

b. the statements are otherwise consistent with the Code of Ethics and the Standards of Practice;

c. the recipients of the information are not encouraged to infer that a professional counseling relationship has been established.

5. Unjustified Gains. Counselors shall not use their professional positions to seek or receive unjustified personal gains, sexual favors, unfair advantage, or unearned goods or services.

F. Responsibility to Other Professionals

1. Different Approaches. Counselors shall be respectful of approaches to professional counseling that differ from their own. Counselors shall know and take into account the traditions and practices of other professional groups with which they work.

2. Personal Public Statements. When making personal statements in a public context, counselors shall clarify that they are speaking from their personal perspectives and that they are not speaking on behalf of all counselors or the profession.

3. Clients Served by Others. When counselors learn that their clients are in a professional relationship with another mental health professional, they shall request release from clients to inform the other professionals and strive to establish positive and collaborative professional relationships.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:441 (March 1998).

§2109. Relationships with Other Professionals

A. Relationships with Employers and Employees

1. **Role Definition.** Counselors shall define and describe for their employers and employees the parameters and levels of their professional roles.

2. **Agreements.** Counselors shall establish working agreements with supervisors, colleagues, and subordinates regarding counseling or clinical relationships, confidentiality, adherence to professional standards, distinction between public and private material, maintenance and dissemination of recorded information, workload, and accountability. Working agreements in each instance shall be specified and made known to those concerned.

3. **Negative Conditions.** Counselors shall alert their employers to conditions that may be potentially disruptive or damaging to the counselor's professional responsibilities or that may limit their effectiveness.

4. **Evaluation.** Counselors shall submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

5. **In-Service.** Counselors shall be responsible for in-service development of self and staff.

6. **Goals.** Counselors shall inform their staff of goals and programs.

7. **Practices.** Counselors shall provide personnel and agency practices that respect and enhance the rights and welfare of each employee and recipient of agency services. Counselors shall strive to maintain the highest levels of professional services.

8. **Personnel Selection and Assignment.** Counselors shall select competent staff and assign responsibilities compatible with their skills and experiences.

9. **Discrimination.** Counselors, as either employers or employees, shall not engage in or condone practices that are inhumane, illegal, or unjustifiable (such as considerations based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, or socioeconomic status) in hiring, promotion, or training.

10. **Professional Conduct.** Counselors shall have a responsibility both to clients and to the agency or institution within which services are performed to maintain high standards of professional conduct.

11. **Exploitive Relationships.** Counselors shall not engage in exploitive relationships with individuals over whom they have supervisory, evaluative, or instructional control or authority.

12. **Employer Policies.** The acceptance of employment in an agency or institution implies that counselors shall be in agreement with its general policies and principles. Counselors shall strive to reach agreement with employers as to acceptable standards of conduct that allow for changes in institutional policy conducive to the growth and development of clients.

B. Consultation

1. **Consultation as an Option.** Counselors may choose to consult with any other professionally competent persons about

their clients. In choosing consultants, counselors shall avoid placing the consultant in a conflict of interest situation that would preclude the consultant being a proper party to the counselor's efforts to help the client. Should counselors be engaged in a work setting that compromises this consultation standard, they shall consult with other professionals whenever possible to consider justifiable alternatives.

2. **Consultant Competency.** Counselors shall be reasonably certain that they have or the organization represented has the necessary competencies and resources for giving the kind of consulting services needed and that appropriate referral resources are available.

3. **Understanding with Clients.** When providing consultation, counselors shall attempt to develop with their clients a clear understanding of problem definition, goals for change, and predicted consequences of interventions selected.

4. **Consultant Goals.** The consulting relationship is one in which client adaptability and growth toward self-direction shall be consistently encouraged and cultivated.

C. Fees for Referral

1. **Accepting Fees from Agency Clients.** Counselors shall refuse a private fee or other remuneration for rendering services to persons who are entitled to such services through the counselor's employing agency or institution. The policies of a particular agency may make explicit provisions for agency clients to receive counseling services from members of its staff in private practice. In such instances, the clients must be informed of other options open to them should they seek private counseling services.

2. **Referral Fees.** Counselors shall not accept a referral fee from other professionals.

D. Subcontractor Arrangements. When counselors work as subcontractors for counseling services for a third party, they shall have a duty to inform clients of the limitations of confidentiality that the organization may place on counselors in providing counseling services to clients. The limits of such confidentiality ordinarily shall be discussed as part of the intake session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625-26 (August 1989), amended LR 24:443 (March 1998).

§2111. Evaluation, Appraisal, and Interpretation

A. General

1. **Appraisal Techniques.** The primary purpose of appraisal (henceforth known as "appraisal") is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors shall recognize the need to interpret the statements in §2111 as applying to the whole range of appraisal techniques, including test and nontest data. Counselors shall recognize their legal parameters in utilizing formalized appraisal techniques and adhere to such.

2. **Client Welfare.** Counselors shall promote the welfare and best interests of the client in the development, publication, and utilization of appraisal techniques. They shall not misuse appraisal results and interpretations and shall take reasonable steps to prevent others from misusing the information these

techniques provide. They shall respect the client's right to know the result, the interpretations made, and the bases for their conclusions and recommendations.

B. Competence to Use and Interpret Tests

1. **Limits of Competence.** Counselors shall recognize the limits of their competence and perform only those testing and appraisal services for which they have been trained and is within R.S. 37:1101-1115. They shall be familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer-based test interpretations shall be trained in the construction being measured and the specific instrument being used prior to using this type of computer application. Counselors shall take reasonable measures to ensure the proper use of formalized appraisal techniques by persons under their supervision.

2. **Appropriate Use.** Counselors shall be responsible for the appropriate application, scoring, interpretation, and use of appraisal instruments, whether they score and interpret such tests themselves or use computerized or other services.

3. **Decisions Based on Results.** Counselors shall be responsible for decisions involving individuals or policies that are based on appraisal results have a thorough understanding of formalized measurement technique, including validation criteria, test research, and guidelines for test development and use.

4. **Accurate Information.** Counselors shall provide accurate information and avoid false claims or misconceptions when making statements about formalized appraisal instruments or techniques.

C. Informed Consent

1. **Explanation to Clients.** Prior to performing such, counselors shall explain the nature and purposes of a formal appraisal and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless an explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, or by computer or other outside services, counselors shall take reasonable steps to ensure that appropriate explanations are given to the client.

2. **Recipients of Results.** The examinee's welfare, explicit understanding, and prior agreement shall determine the recipients of test results. Counselors shall include accurate and appropriate interpretations with any release of individual or group test results.

D. Release of Information to Competent Professionals

1. **Misuse of Results.** Counselors shall not misuse appraisal results, including test results, and interpretations, and shall take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Counselors shall ordinarily release data (e.g., protocols, counseling or interview notes, or questionnaires) in which the client is identified only with the consent of the client or the client's legal representative. Such data are usually released only to persons recognized by counselors as competent to interpret the data.

E. Test Selection

1. **Appropriateness of Instruments.** Counselors shall carefully consider the validity, reliability, psychometric

limitations, and appropriateness of instruments when selecting tests for use in a given situation or with a particular client.

2. **Culturally Diverse Populations.** Counselors shall be cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

F. Conditions of Test Administration

1. **Administration Conditions.** Counselors shall administer tests under the same conditions that were established in their standardization. When tests are not administered under standard conditions or when unusual behavior or irregularities occur during the testing session, those conditions shall be noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Counselors shall be responsible for ensuring that administration programs function properly to provide clients with accurate results when a computer or other electronic methods are used for test administration.

3. **Unsupervised Test-Taking.** Counselors shall not permit unsupervised or inadequately supervised use of tests or appraisals unless the tests or appraisals are designed, intended, and validated for self-administration and/or scoring.

4. **Disclosure of Favorable Conditions.** Prior to test administration, conditions that produce most favorable test results shall be made known to the examinee.

G. **Diversity in Testing.** Counselors shall be cautious in using appraisal techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They shall recognize the effects of age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, and socioeconomic status on test administration and interpretation and place test results in proper perspective with other relevant factors.

H. Test Scoring and Interpretation

1. **Reporting Reservations.** In reporting appraisal results, counselors shall indicate any reservations that exist regarding validity or reliability because of the circumstances of the appraisal or the inappropriateness of the norms for the person tested.

2. **Research Instruments.** Counselors shall exercise caution when interpreting the results of research instruments possessing insufficient technical data to support respondent results. The specific purposes for the use of such instruments shall be stated explicitly to the examinee.

3. **Testing Services.** Counselors who provide test scoring and test interpretation services to support the appraisal process shall confirm the validity of such interpretations. They shall accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use. The public offering of an automated test interpretations service shall be considered a professional-to-professional consultation. The formal responsibility of the consultant shall be to the consultee, but the ultimate and overriding responsibility shall be to the client.

I. **Test Security.** Counselors shall maintain the integrity

and security of tests and other appraisal techniques consistent with legal and contractual obligations. Counselors shall not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

J. **Obsolete Tests and Outdated Test Results.** Counselors shall not use data or test results that are obsolete or outdated for the current purpose. Counselors shall make every effort to prevent the misuse of obsolete measures and test data by others.

K. **Test Construction.** Counselors shall use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of appraisal techniques.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:624 (August 1989), amended LR 24:443 (March 1998).

§2113. Teaching, Training, and Supervision

A. Counselor Educators and Trainers

1. **Educators as Teachers and Practitioners.** Counselors who are responsible for developing, implementing, and supervising educational programs shall be skilled as teachers and practitioners. They shall be knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, shall be skilled in applying that knowledge, and shall make students and supervisees aware of their responsibilities. Counselors shall conduct counselor education and training programs in an ethical manner and shall serve as role models for professional behavior. Counselor educators shall make an effort to infuse material related to human diversity into all courses and/or workshops that are designed to promote the development of professional counselors.

2. **Relationship Boundaries with Students and Supervisees.** Counselors shall clearly define and maintain ethical, professional, and social relationship boundaries with their students and supervisees. They shall be aware of the differential in power that exists and the student's or supervisee's possible incomprehension of that power differential. Counselors shall explain to students and supervisees the potential for the relationship to become exploitive.

3. **Sexual Relationships.** Counselors shall not engage in sexual relationships with students or supervisees and shall not subject them to sexual harassment.

4. **Contributions to Research.** Counselors shall give credit to students or supervisees for their contributions to research and scholarly projects. Credit shall be given through co-authorship, acknowledgment, footnote statement, or other appropriate means, in accordance with such contributions.

5. **Close Relatives.** Counselors shall not accept close relatives as students or supervisees.

6. **Supervision Preparation.** Counselors who offer clinical supervision services shall be adequately prepared in supervision methods and techniques. Counselors who are doctoral students serving as practicum or internship supervisors to master's level students shall be adequately prepared and supervised by the training program.

7. **Responsibility for Services to Clients.** Counselors who supervise the counseling services of others shall take reasonable measures to ensure that counseling services provided to clients are professional.

8. **Endorsement.** Counselors shall not endorse students or supervisees for certification, licensure, employment, or completion of an academic or training program if they believe students or supervisees are not qualified for the endorsement. Counselors shall take reasonable steps to assist students or supervisees who are not qualified for endorsement to become qualified.

B. Counselor Education and Training Programs

1. **Orientation.** Prior to admission, counselors shall orient prospective students to the counselor education or training program's expectations, including but not limited to the following:

- a. the type and level of skill acquisition required for successful completion of the training;
- b. subject matter to be covered;
- c. basis for evaluation;
- d. training components that encourage self-growth or self-disclosure as part of the training process;
- e. the type of supervision settings and requirements of the sites for required clinical field experiences;
- f. student and supervisee evaluation and dismissal policies and procedures;
- g. up-to-date employment prospects for graduates.

2. **Integration of Study and Practice.** Counselors shall establish counselor education and training programs that integrate academic study and supervised practice.

3. **Evaluation.** Counselors shall clearly state to students and supervisees, in advance of training, the levels of competency expected, appraisal methods, and timing of evaluations for both didactic and experiential components. Counselors shall provide students and supervisees with periodic performance appraisal and evaluation feedback throughout the training program.

4. **Teaching Ethics.** Counselors shall make students and supervisees aware of the ethical responsibilities and standards of the profession and the students' and supervisees' ethical responsibilities to the profession.

5. **Peer Relationships.** When students or supervisees are assigned to lead counseling groups or provide clinical supervision for their peers, counselors shall take steps to ensure that students and supervisees placed in these roles do not have personal or adverse relationships with peers and that they understand they have the same ethical obligations as counselor educators, trainers, and supervisors. Counselors shall make every effort to ensure that the rights of peers are not compromised when students or supervisees are assigned to lead counseling groups or provide clinical supervision.

6. **Varied Theoretical Positions.** Counselors shall present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors shall provide information concerning the scientific bases of professional practice.

7. **Field Placements.** Counselors shall develop clear policies within their training program regarding field

placement and other clinical experiences. Counselors shall provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They shall confirm that site supervisors are qualified to provide supervision and are informed of their professional and ethical responsibilities in this role.

8. Dual Relationships as Supervisors. Counselors shall avoid dual relationships such as performing the role of site supervisor and training program supervisor in the student's or supervisee's training program. Counselors shall not accept any form of professional services, fees, commissions, reimbursement, or remuneration from a site for student or supervisee placement.

9. Diversity in Programs. Counselors shall be responsive to their institution's and program's recruitment and retention needs for training program administrators, faculty, and students with diverse backgrounds and special needs.

C. Students and Supervisees

1. Limitations. Counselors, through ongoing evaluation and appraisal, shall be aware of the academic and personal limitations of students and supervisees that might impede performance. Counselors shall assist students and supervisees in securing remedial assistance when needed, and dismiss from the training program supervisees who are unable to provide competent service due to academic or personal limitations. Counselors shall seek professional consultation and document their decision to dismiss or refer students or supervisees for assistance. Counselors shall assure that students and supervisees have recourse to address decisions made, to require them to seek assistance, or to dismiss them.

2. Self-Growth Experience. Counselors shall use professional judgment when designing training experiences conducted by the counselors themselves that require student and supervisee self-growth or self-disclosure. Safeguards shall be provided so that students and supervisees are aware of the ramifications their self-disclosure may have on counselors whose primary role as teacher, trainer, or supervisor requires acting on ethical obligations to the profession. Evaluative components of experiential training experiences shall explicitly delineate predetermined academic standards that are separate and not dependent on the student's level of self-disclosure.

3. Counseling for Students and Supervisees. If students or supervisees request counseling, supervisors or counselor educators shall provide them with acceptable referrals. Supervisors or counselor educators shall not serve as counselor to students or supervisees over whom they hold administrative, teaching, or evaluative roles unless this is a brief role associated with a training experience.

4. Clients of Students and Supervisees. Counselors shall make every effort to ensure that the clients at field placements are aware of the services rendered and the qualifications of the students and supervisees rendering those services. Clients shall receive professional disclosure information and shall be informed of the limits of confidentiality. Client permission shall be obtained in order for the students and supervisees to use any information concerning the counseling relationship in the training process.

5. Standards for Students and Supervisees. Students and supervisees preparing to become counselors shall adhere to the Code of Ethics and the Standards of Practice. Students and supervisees shall have the same obligations to clients as those required of counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:626 (August 1989), amended LR 24:445 (March 1998).

§2115. Research and Publication

A. Research Responsibilities

1. Use of Human Subjects. Counselors shall plan, design, conduct, and report research in a manner consistent with pertinent ethical principles, federal and state laws, host institutional regulations, and scientific standards governing research with human subjects. Counselors shall design and conduct research that reflects cultural sensitivity appropriateness.

2. Deviation from Standard Practices. Counselors shall seek consultation and observe stringent safeguards to protect the rights of research participants when a research problem suggests a deviation from standard acceptable practices.

3. Precautions to Avoid Injury. Counselors who conduct research with human subjects shall be responsible for the subjects' welfare throughout the experiment and shall take reasonable precautions to avoid causing injurious psychological, physical, or social effects to their subjects.

4. Principal Researcher Responsibility. The ultimate responsibility for ethical research practice shall lie with the principal researcher. All others involved in the research activities shall share ethical obligations and full responsibility for their own actions.

5. Minimal Interference. Counselors shall take reasonable precautions to avoid causing disruptions in subjects' lives due to participation in research.

6. Diversity. Counselors shall be sensitive to diversity and research issues with special populations. They shall seek consultation when appropriate.

B. Informed Consent

1. Topics Disclosed. In obtaining informed consent for research, counselors shall use language that is understandable to research participants and that:

- a. accurately explains the purpose and procedures to be followed;
- b. identifies any procedures that are experimental or relatively untried;
- c. describes the attendant discomforts and risks;
- d. describes the benefits or changes in individuals or organizations that might be reasonably expected;
- e. discloses appropriate alternative procedures that would be advantageous for subjects;
- f. offers to answer any inquiries concerning the procedures;
- g. describes any limitations on confidentiality;
- h. instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time.

2. Deception. Counselors shall not conduct research involving deception unless alternative procedures are not feasible and the prospective value of the research justifies the deception. When the methodological requirements of a study necessitate concealment or deception, the investigator shall be required to explain clearly the reasons for this action as soon as possible.

3. Voluntary Participation. Participation in research shall be typically voluntary and without any penalty for refusal to participate. Involuntary participation shall be appropriate only when it can be demonstrated that participation will have no harmful effects on subjects and is essential to the investigation.

4. Confidentiality of Information. Information obtained about research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, shall be explained to participants as a part of the procedure for obtaining informed consent.

5. Persons Incapable of Giving Informed Consent. When a person is incapable of giving informed consent, counselors shall provide an appropriate explanation, obtain agreement for participation, and shall obtain appropriate consent from a legally authorized person.

6. Commitments to Participants. Counselors shall take reasonable measures to honor all commitments to research participants.

7. Explanations After Data Collection. After data are collected, counselors shall provide participants with full clarification of the nature of the study to remove any misconceptions. Where scientific or human values justify delaying or withholding information, counselors shall take reasonable measures to avoid causing harm.

8. Agreements to Cooperate. Counselors who agree to cooperate with another individual in research or publication shall incur an obligation to cooperate as promised in terms of punctuality of performance and with regard to the completeness and accuracy of the information required.

9. Informed Consent for Sponsors. In the pursuit of research, counselors shall give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors shall be aware of their obligation to future research workers and ensure that host institutions are given feedback information and proper acknowledgment.

C. Reporting Results

1. Information Affecting Outcome. When reporting research results, counselors shall explicitly mention all variables and conditions known to the investigator that may have affected the outcome of a study or the interpretation of data.

2. Accurate Results. Counselors shall plan, conduct, and report research accurately and in a manner that minimizes the possibility that results will be misleading. They shall provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors shall not engage in

fraudulent research, distort data, misrepresent data, or deliberately bias their results.

3. Obligation to Report Unfavorable Results. Counselors shall communicate to other counselors the results of any research judged to be of professional value. Results that reflect unfavorably on institutions, programs, services, prevailing opinions, or vested interests shall not be withheld.

4. Identity of Subjects. Counselors who supply data, aid in the research of another person, report research results, or make original data available shall take due care to disguise the identity of respective subjects in the absence of specific authorization from the subjects to do otherwise.

5. Replication Studies. Counselors shall be obligated to make available sufficient original research data to qualified professionals who may wish to replicate the study.

D. Publication

1. Recognition of Others. When conducting and reporting research, counselors shall be familiar with and give recognition to previous work on the topic, observe copyright laws, and give full credit to those to whom credit is due.

2. Contributors. Counselors shall give credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to those who have contributed significantly to research or concept development in accordance with such contributions. The principal contributor shall be listed first and minor technical or professional contributions shall be acknowledged in notes or introductory statements.

3. Student Research. For an article that is substantially based on a student's dissertation or thesis, the student shall be listed as the principal author.

4. Duplicate Submission. Counselors shall submit manuscripts for consideration to only one journal at a time. Manuscripts that are published in whole or in substantial part in another journal or published work shall not be submitted for publication without acknowledgment and permission from the previous publication.

5. Professional Review. Counselors who review material submitted for publication, research, or other scholarly

purposes shall respect the confidentiality and proprietary rights of those who submitted it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:625 (August 1989), amended LR 24:446 (March 1998).

§2117. Resolving Ethical Issues

A. Knowledge of Standards. Counselors shall be familiar with the Code of Ethics and the Standards of Practice and other applicable ethics codes from other professional organizations of which they are members, or from certification and licensure bodies. Lack of knowledge or misunderstanding of an ethical responsibility shall not be a defense against a charge of unethical conduct.

B. Suspected Violations

1. Ethical Behavior Expected. Counselors shall expect professional associates to adhere to the Code of Ethics. When counselors possess reasonable cause that raises doubts as to

whether a counselor is acting in an ethical manner, they shall take appropriate action.

2. Consultation. When uncertain as to whether a particular situation or course of action may be in violation of the Code of Ethics, counselors shall consult with other counselors who are knowledgeable about ethics, with colleagues, or with appropriate authorities.

3. Organization Conflicts. If the demands of an organization with which counselors are affiliated pose a conflict with the Code of Ethics, counselors shall specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to the Code of Ethics. When possible, counselors shall work toward change within the organization to allow full adherence to the Code of Ethics.

4. Informal Resolution. When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they shall attempt to first resolve the issue informally with the other counselor if feasible, providing that such action does not violate confidentiality rights that may be involved.

5. Reporting Suspected Violations. When an informal resolution is not appropriate or feasible, counselors, upon reasonable cause, shall take action such as reporting the suspected ethical violation to state or national ethics committee, unless this action conflicts with confidentiality rights that cannot be resolved.

6. Unwarranted Complaints. Counselors shall not initiate, participate in, or encourage the filing of ethics complaints that are unwarranted or intend to harm a counselor rather than to protect clients or the public.

C. Cooperations with Ethics Committees. Counselors shall assist in the process of enforcing the Code of Ethics. Counselors shall cooperate with investigations, proceedings, and requirements of the ACA Ethics Committee or ethics committees of other duly constituted associations or boards having jurisdiction over those charged with a violation. Counselors shall be familiar with the ACA Policies and Procedures and use it as a reference in assisting the enforcement of the Code of Ethics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:622 (August 1989), amended LR 24:447 (March 1998).

Gary S. Grand
Chairman

9803#020

RULE

**Department of Health and Hospitals
Licensed Professional Counselors Board of Examiners**

Fees (LAC 46:LX.901)

The Licensed Professional Counselors Board of Examiners, under the Authority of the Mental Health Counselor Licensing

Act, R.S. 37:1101-1115, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends the following fees for the maintenance of the Licensed Professional Counselors Board of Examiners.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LX. Licensed Professional Counselors Board of Examiners

Chapter 9. Fees

§901. General

A. The board shall collect the following fees:

- | | |
|---|---------------|
| 1. registration of supervision | \$ 100 |
| 2. privileging review for appraisal and other specialty areas | \$ 100 |
| 3. application for licensure | \$ 200 |
| 4. renewal of license | \$ 150 |
| 5. late fee for renewal | \$ 50 |
| 6. reissue of license (duplicate) | \$ 25 |
| 7. name change on records | \$ 25 |
| 8. copy of LPC file | \$ 25 |
| 9. copy of any documents | cost incurred |

B. The late fee will be incurred the day after a licensee's designated renewal deadline at 4 p.m. (no grace period). If the deadline falls on a weekend, the next working day will be considered as the deadline for the renewal at 4 p.m. No part of any fee shall be refundable under any conditions. All fees for licensing must be paid to the board by certified check or money order.

C. The board may assess and collect all costs incurred in connection with disciplinary actions including, but not limited to, the fees of investigators, stenographers, and procedural hearing officers. The prevailing party in any disciplinary action shall be reimbursed for all attorney fees and costs incurred in connection with such action.

D. The board may assess and collect fines in an amount not to exceed \$500 for violations of Chapter 9 and rules promulgated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1115.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Licensed Professional Counselors Board of Examiners, LR 14:82 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 15:545 (July 1989), LR 18:51 (January 1992), LR 24:448 (March 1998).

Gary S. Grand
Chairman

9803#019

RULE

Department of Health and Hospitals Office of the Secretary

Departmental Research (LAC 48:I.Chapter 25)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Health and Hospitals (DHH), Office of the Secretary hereby adopts rules to assure that the rights of human subjects of research conducted in programs or facilities operated or funded by DHH are protected through the establishment of a review and approval process for all research proposals. This rule is in compliance with federal regulations 45 CFR, Part 46 issued June 18, 1991, which require agencies in receipt of federal funds to establish a research review process to protect the rights of human subjects of research.

Title 48

PUBLIC HEALTH

Part I. General

Chapter 25. Departmental Research

§2501. Purpose

These policies are designed to assure the protection of the rights of human subjects of research conducted in programs or facilities operated or funded by the Department of Health and Hospitals (DHH).

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:449 (March 1998).

§2503. Applicability

These policies apply to all research conducted in programs/facilities operated or funded by the DHH.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:449 (March 1998).

§2505. Definitions

Cognitively Impaired—having either a psychiatric disorder (e.g., psychosis, neurosis, personality or behavior disorders), an organic impairment (e.g., dementia) or a developmental disorder (e.g., mental retardation) that affects cognitive or emotional functions to the extent that capacity for judgement and reasoning is significantly diminished. Others, including persons under the influence of or dependent on drugs or alcohol, those suffering from degenerative diseases affecting the brain, terminally ill patients, and persons with severely disabling physical handicaps may also be compromised in their ability to make decisions in their best interests.

Competence—technically, a legal term used to denote capacity to act on one's own behalf; the ability to understand information presented, to appreciate the consequences of acting (or not acting) on that information, and to make a choice. (See also: *Incompetence*, *Incapacity*.) Competence may fluctuate as a function of the natural course of a mental illness, response to treatment, effects of medication, general physical health, and other factors. Therefore, mental status should be re-evaluated periodically. As a designation of legal

status, competence or incompetence pertains to an adjudication in court proceedings that a person's abilities are so diminished that his or her decisions or actions should have no legal effect. Such adjudications are often determined by inability to manage business or monetary affairs and do not necessarily reflect a person's ability to function in other situations.

DHH—Department of Health and Hospitals (Louisiana).

DHHS—U.S. Department of Health and Human Services. This federal agency promulgated 45 CFR, Part 46, *Protection of Human Subjects*, revised June 18, 1991, effective August 19, 1991. DHH's research policies are based upon 45 CFR, Part 46.

Human Subject—a living individual about whom an investigator (whether professional or student) conducting research obtains:

1. data through intervention or interaction with the individual; or
2. identifiable private information.

Identifiable Private Information—private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (e.g., a medical record). Private information must be individually identifiable (i.e., the identification of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

Incapacity—refers to a person's mental status and means inability to understand information presented, to appreciate the consequences of acting (or not acting) on that information, and to make a choice. Often used as a synonym for *incompetence*.

Incompetence—technically, a legal term meaning inability to manage one's affairs. Often used as a synonym for *incapacity*.

IRB Approval—the determination of the IRB that the research has been reviewed and may be conducted within the constraints set forth by the IRB and by other state and federal requirements.

Institutional Review Board (IRB)—the DHH committee with responsibility for reviewing and recommending approval/disapproval of all research proposals.

Interaction—includes communication or interpersonal contact between investigator and subject.

Intervention—includes both physical procedures by which data are gathered (e.g., venipuncture) and manipulations of the subject or his/her environment that are performed for research purposes.

Investigator—the person conducting research.

Minimal Risk—the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during performance of routine physical or psychological examinations or tests.

Programmatic Offices—the major programmatic offices in DHH are: Bureau of Health Services Financing (BHSF),

Office of Alcohol and Drug Abuse (OADA), Office for Citizens with Developmental Disabilities (OCDD), Office of Mental Health (OMH), and Office of Public Health (OPH).

Research—systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:449 (March 1998).

§2507. Statement of Principles

A. The DHH believes that research involving human subjects must be based upon the principles of respect for persons, beneficence, and justice.

1. Respect for persons involves a recognition of personal dignity and autonomy of individuals, and special protection of those persons with diminished autonomy.

2. Beneficence entails an obligation to protect persons from harm by maximizing anticipated benefits and minimizing possible risks of harm.

3. Justice requires that benefits and burdens of research be distributed fairly.

B. DHH also recognizes that many consumers of its services may be cognitively impaired and therefore deserve special consideration as potential research subjects. The predominant ethical concern in research involving persons with psychiatric, cognitive, developmental, or chemical dependency disorders is that their conditions may compromise their capacity to understand the information presented and their ability to make a reasoned decision about participation. Consequently, approval of proposals to use these individuals as research subjects will be conditioned upon the researcher demonstrating that:

1. such individuals comprise the only appropriate subject population;

2. the research question focuses on an issue unique to these subjects;

3. the research involves no more than minimal risk, except when the purpose of the research is therapeutic for these individual subjects and the risk is commensurate with the degree of expected benefit.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:450 (March 1998).

§2509. Policies and Procedures

A. Policy Basis. Research conducted and authorized by the DHH will meet all applicable federal and state laws and regulations, accreditation standards, and professional codes of ethics. These policies derive primarily from 45 CFR, Part 46, *Protection of Human Subjects* and are also consonant with 21 CFR, Parts 50 and 56, adopted by the Food and Drug Administration. (Both sets of regulations were effective on August 19, 1991.) 45 CFR, Part 46 is applicable to other DHHS components, including the Health Care Financing Authority (Medical Assistance Programs).

B. Establishment of Institutional Review Board (IRB). There is hereby established a DHH IRB to review and evaluate all proposed research projects.

1. Twenty-four hour facilities may either utilize these policies as written or amend them to provide for an in-house IRB for initial assessment of research projects prior to submission to the DHH IRB for final review.

2. All research involving DHH consumers, employees, or services in the community and in institutions will be reviewed by the DHH IRB before it is submitted to the secretary or designee for final approval.

3. The IRB is a permanent standing committee which meets quarterly or as needed.

4. The membership shall consist of at least seven members, appointed by the secretary, partly from recommendations by the assistant secretaries and the director of the BHSF:

a. the director of Research and Development or his/her designee shall serve as permanent chairperson of the IRB. In the event of an extended absence from duty of the permanent chair, the secretary shall appoint a temporary replacement to serve during that period;

b. each office and the BHSF shall have at least one member;

c. relevant professional disciplines shall be represented in the membership;

d. at least one member shall be a direct service provider;

e. one member shall not be employed by the DHH. If possible, this member should be an ethicist (specialist in ethics) or an attorney;

f. at least one member shall be either a primary consumer, or a family member, or an advocate;

g. at least one member's primary concerns shall be in science areas and at least one member's primary concerns shall be in nonscientific areas. If not selected under §2509.B.4.e, an attorney or ethicist should fill the latter slot;

5. The IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available to the IRB. Such individuals shall not vote with the IRB.

6. IRB members should have appropriate research training, experience or interest. Membership should also sufficiently represent the cultural, ethnic, and gender diversity of the state and be sensitive to diverse community attitudes.

7. Except for the chair, members shall be appointed for one-year terms and may be reappointed.

8. No IRB member may participate in the initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

9. Once constituted, the IRB shall adopt written bylaws and guidelines/application materials for conducting research in DHH operated/funded programs or facilities.

10. Research approved by the Office of Public Health's (OPH) IRB prior to the adoption of these policies does not require DHH IRB approval. However, copies of proposals approved by the OPH IRB shall be provided to the chair of the DHH IRB.

C. IRB Review Process. Prior to authorization and initiation of research, an IRB meeting shall be convened to

conduct a detailed review of the project in order to determine that all of the following requirements are met.

1. Proposal incorporates procedures designed to minimize the risk to participants. Risks to subjects are minimized by using procedures which are consistent with sound research design and do not unnecessarily expose subjects to risk and, whenever appropriate, by using procedures already being performed on subjects for diagnostic or treatment purposes.

2. Risks to subjects are reasonable in relation to anticipated benefits and the importance of any knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research, as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research. The IRB should not consider possible long-range effects of applying knowledge gained in the research (e.g., possible effects of research on public policy) as among those research risks that fall within its purview.

3. Selection of subjects is equitable. In making this assessment, the IRB should take into account the purposes and setting of the research. It should be particularly cognizant of special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

4. Research design minimizes possible disruptive effects of project on organizational operation.

5. Research design is in compliance with accepted ethical standards.

6. Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with and to the extent required in §2509.E.

7. Informed consent will be appropriately documented, in accordance with and to the extent required by §2509.E.1-E.5 of these rules.

8. When appropriate, the research plan provides monitoring of the data collected to ensure subjects' safety.

9. Research proposal contains requisite safeguards to protect the privacy of subjects and to maintain the confidentiality of data.

10. Research proposal has been approved at the appropriate program administrative level, beginning with the program/facility.

D. IRB Recommendations and Notification

1. Researchers should be either present at the IRB meeting which considers their proposals or available for questioning at an indicated phone number during that time.

2. Following detailed review, the IRB by majority vote approves (fully or provisionally) or disapproves the research proposal.

a. Provisional approval means that minor modifications, specified in writing by the IRB, must be received by the chair within 30 days in order to recommend full approval.

b. Proposals receiving full approval are sent to the secretary or designee for authorization to begin research.

3. The secretary or the director of Research and Development will notify the researcher in writing of the IRB's decision to approve or disapprove the proposed research within 10 working days.

a. If the proposal is not approved, the letter will indicate reasons for disapproval and give the researcher an opportunity to respond in writing to the IRB.

b. There are no appeals for research proposals disapproved on the basis of ethical shortcomings or potential harm to subjects.

c. No research, subject to IRB review, can begin until written authorization from the secretary or designee is received.

d. Research approved by the IRB may be subject to further administrative review and approval or disapproval. However, no administrator can approve research which has not been approved by the IRB.

e. After approval, the IRB shall review the research in progress at appropriate intervals, but not less than once per year.

f. The IRB has the authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected harm to subjects. Any suspension or termination of approval shall be in writing, include the reasons for this action, and be reported promptly to the investigator, appropriate agency officials, and the secretary.

g. Cooperative research refers to those projects covered by this Chapter which involve more than one institution or agency. In the conduct of cooperative research projects, each institution or agency is responsible for safeguarding the rights and welfare of human subjects and for complying with 45 CFR, Part 46. With the approval of the DHH or agency head, an institution participating in a cooperative project may enter into a joint review arrangement, rely upon the review of another qualified IRB, or make similar arrangements for avoiding duplication of effort.

4. Expedited Review Procedure

a. Research that involves no more than minimal risk and in which the only involvement of human subjects will be in one or more of the following categories (carried out through standard methods) may be reviewed by the IRB through an expedited review procedure. Under this procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chair from among IRB members. In reviewing the research, the reviewers may exercise all of the authority of the IRB except that they may not disapprove the research. Research may be disapproved only after review in accordance with the nonexpedited procedures set forth in §2509.C. A report of all research approved by expedited review will be presented by the chair to the full IRB at its next regularly scheduled meeting. Categories of research which may qualify for expedited review include:

i. research conducted in established or commonly accepted educational settings, involving normal educational practices (e.g., research on special education instructional strategies);

ii. research involving the use of educational tests,

survey procedures, interview procedures, or observation of public behavior if such research does not record information or identifiers which can be linked to individual human subjects;

iii. research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens;

iv. research and demonstration projects which are conducted by or subject to the approval of the secretary or heads of programmatic offices and are designed to study, evaluate, or otherwise examine public benefit of services or programs;

v. research conducted by faculty or students at colleges/universities if all of the following conditions are met:

(a). a copy of the university's IRB policies is on file with the DHH IRB;

(b). university IRB's approval of the research is documented;

(c). a copy of the full research proposal is included;

(d). for student research, written approval of the project by both a faculty advisor and a DHH staff sponsor must be provided;

vi. research approved by an IRB in 24-hour facilities if requested via the chief executive officer of the facility to the DHH IRB chair;

vii. requests from investigators for minor changes in research approved less than one year prior to such request;

viii. cooperative research which has been approved by the IRB and head of an agency outside of DHH.

b. The secretary or agency heads may restrict, suspend, terminate, or choose not to authorize use of the expedited review procedure.

E. Informed Consent of Research Subjects. Except as provided elsewhere in Chapter 25, no investigator may involve a human being as a subject in research unless the investigator obtains the legally effective informed consent of the subject or the subject's authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or representative shall be in language easily understandable to the subject or representative. No informed consent document may include any exculpatory language through which the subject or representative is made to waive or appear to waive any of the subject's legal rights or the investigator, the sponsor, or the agency and its agents are/appear to be released from liability for negligence.

1. Basic Elements of Informed Consent. Except as provided below, the investigator shall provide each subject the following information:

a. a statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;

b. a description of any reasonably foreseeable risks or discomforts to the subject;

c. a description of any benefits to the subject or to others which may reasonably be expected from the research;

d. a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

e. a statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

f. for research involving more than minimal risk, explanations as to whether any compensation and medical treatment are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

g. an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research related injury to the subject;

h. a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

2. Additional Elements of Informed Consent. When appropriate, one or more of the following elements of information shall also be provided to each subject:

a. a statement that the particular treatment or procedure may involve risk that is currently unforeseeable;

b. anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;

c. any additional costs to the subject that may result from research participation;

d. the consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

e. a statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject;

f. the approximate number of subjects involved in the study.

3. Waiver of Informed Consent. The IRB may waive the requirement to obtain informed consent provided that the IRB finds and documents that:

a. the research or demonstration project is to be conducted by or subject to the approval of state government officials and is designed to study or evaluate public benefit of services provided or funded by DHH;

b. such project deals with improving procedures for obtaining benefits/services under those programs and/or suggesting possible changes in or alternatives to those programs/procedures or in the methods/levels of payment for benefits or services under those programs; and

c. such research or projects shall not involve identifying individual recipients of services/benefits.

4. Documentation of Informed Consent

a. Informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the

subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.

b. The written consent document must embody the elements of informed consent required in §2509.E.1. This form may be read to the subject or the subject's legally authorized representative but, in any event, the investigator shall give either the subject or the representative adequate opportunity to read it before it is signed. An IRB recommended informed consent document will be included in the guidelines/application materials for conducting research in DHH operated/funded programs or facilities.

c. The IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:

i. that the only record linking the subject and the research would be the consent document and the principal risk would be the potential harm resulting from a breach of confidentiality. Each subject will be asked if he/she wants documentation linking him/her with the research, and the subject's wish shall govern; or

ii. that the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

d. In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects with a written statement regarding the research.

5. The IRB shall demand additional protection and informed consent rights if the research involves fetuses, pregnant women and human in-vitro fertilization (45 CFR 46:201-211), prisoners (45 CFR 46:301-306), or children (45 CFR 46:401-409).

F. Responsibilities of Research Investigators. In addition to all of the requirements detailed in §2509, researchers shall be responsible for the following.

1. Research investigators shall prepare and submit a protocol giving a complete description of the proposed research.

a. The protocol shall include provisions for adequate protection of the rights and welfare of prospective research subjects and ensure that pertinent laws and regulations are observed.

b. Samples of proposed informed consent forms shall be included with the protocol.

c. A completed DHH Application to Conduct Research must be submitted with the protocol.

2. Research investigators shall obtain and document appropriate administrative approval (beginning at the program/facility level) to conduct research before the proposal is submitted to the DHH IRB.

3. Prior to the beginning of the research, the investigator shall communicate to impacted staff the purpose and nature of the research.

4. Upon completion of the research, the principal investigator shall attempt to remove any confusion, misinformation, stress, physical discomfort, or other harmful consequences, however unlikely, that may have arisen with respect to subjects as a result of the research.

5. Within 30 working days of the completion of the research, the principal investigator shall communicate the outcome(s) and practical or theoretical implications of the research project to the program administrator and, when appropriate, program staff in a manner that they can understand.

6. The researcher shall submit progress reports as requested by the IRB (at least annually). As soon as practicable after completion of the research, but in no case longer than 90 working days later, the research investigator shall submit to the IRB a written report, which, at a minimum, shall include:

a. a firm date on which a full, final report of research findings will be submitted;

b. a succinct exposition of the hypotheses of the research, the research design and methodologies, and main findings of the research;

c. an estimate of the validity of conclusions reached and some indication of areas requiring additional research; and

d. specific plans for publishing results of the research.

7. A final report of the research as well as copies of any publications based upon the research will be submitted to the IRB as soon as possible. The state owns the final report, but prior permission of the IRB for the investigator to publish results of the research is not required. The publication is the property of the researcher and/or the medium in which it is published. However, failure to provide the IRB with required periodic and final reports or publications based on the research shall negatively impact that researcher's future research shall negatively impact that researcher's future requests to conduct research in DHH operated/funded programs or facilities.

G. Initiation of the Research Review Process

1. The first contact in the process should be by the research investigator with the manager of the program or facility from which subjects will be drawn.

2. If the manager agrees that the research is feasible and desirable, the researcher will obtain his/her written authorization and send the protocol to appropriate staff at headquarters for consideration and approval by the assistant secretaries or the director of BHSF.

3. The assistant secretaries or the director of BHSF, in approving the research proposal, will certify that:

a. the research design is adequate and meets acceptable scientific standards;

b. appropriate ethical considerations have been identified and discussed;

c. the proposal contains provisions to minimize possible disruptive effects of the project on organization's operation;

d. the research will potentially benefit the participants directly or improve the service system; and

e. the research topic is compatible with the agency's research agenda.

4. The assistant secretaries or the director of BHSF, after approval of the research, will submit the proposal to the IRB for further consideration.

H. IRB Records

1. The IRB shall prepare and maintain adequate documentation of IRB activities, including the following:

a. copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to subjects;

b. minutes of IRB meetings in sufficient detail to show attendance at the meeting; actions taken by the IRB; the vote on these actions, including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution;

c. records of continuing review activities;

d. copies of all correspondence between the IRB and investigators;

e. a list of IRB members identified by name; earned degrees; representative capacity; indications of experience sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the DHH;

f. written procedures for the IRB and statements of significant new findings provided to subjects.

2. The records required by §2509.H shall be retained for at least three years, and records relating to research which is conducted shall be retained for at least three years after completion of the research. All records shall be accessible for inspection and copying by authorized representatives of DHHS or the agency at reasonable times and in a reasonable manner.

AUTHORITY NOTE: Promulgated in accordance with 56 FR 28002.

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David W. Hood
Secretary

9803#029

RULE

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

Disproportionate Share Hospital Payment Methodologies

The Department of Health and Hospitals, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This rule is promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Bureau of Health Services Financing replaces prior regulations governing disproportionate share hospital payment methodologies and establishes the following regulations to govern the disproportionate share hospital payment methodologies.

I. General Provisions

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

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

C. Appropriate action, including, but not limited to, deductions from DSH, Medicaid payments and cost report settlements shall be taken to recover any overpayments resulting from the use of erroneous data, or if it is determined upon audit that a hospital did not qualify.

D. DSH payments to a hospital other than a small rural or state hospital determined under any of the methodologies in this rule shall not exceed the hospital's uncompensated cost in accordance with the hospital's fiscal year-end cost report ending during the previous state fiscal year ending. DSH payments to a small rural hospital determined under any of the methodologies in this rule shall not exceed the hospital's uncompensated cost for the hospital's fiscal year-end cost report ending during April 1 through March 31 of the previous year. DSH payments to a state hospital determined under any of the methodologies in this rule shall not exceed the hospital's uncompensated cost for the state fiscal year to which the payment is applicable.

E. Qualification is based on the hospital's latest year-end cost report for the year ended during the period July 1 through June 30 of the previous year except that a small rural hospital's qualification is based on the hospital's year-end cost report for the year ending during the period April 1 through March 31 of the previous year. Only hospitals that timely return DSH qualification documentation will be considered for disproportionate share payments. For hospitals with distinct part psychiatric units, qualification is based on the entire hospital's utilization.

F. Hospitals/units which close or withdraw from the Medicaid Program shall become ineligible for further DSH pool payments for the remainder of the current DSH pool payment cycle and thereafter.

G. *Net Uncompensated Cost*—cost of furnishing inpatient and outpatient hospital services net of Medicare costs, Medicaid payments (excluding disproportionate share payments), costs associated with patients who have insurance for services provided, private payer payments, and all other inpatient and outpatient payments received from patients. It is mandatory that qualifying hospitals seek all third-party payments including Medicare, Medicaid and other third-party carriers. Hospitals not in compliance with free care criteria will be subject to recoupment of DSH and Medicaid payments.

H. No additional payments shall be made if an increase in days or uncompensated cost is determined after audit.

Recoupment of overpayment from reductions in pool days originally reported shall be redistributed to the hospital that has the largest number of inpatient days attributable to individuals entitled to benefits under the State Plan of any hospitals in the state for the year in which the recoupment is applicable.

I. Disapproval of any one of these payment methodology(ies) by the Health Care Financing Administration does not invalidate the remaining methodology(ies).

II. Qualifying Criteria for a Disproportionate Share Hospital

A. A hospital must have at least two obstetricians who have staff privileges and who have agreed to provide obstetric services to individuals who are Medicaid eligibles. In the case of a hospital located in a rural area (i.e., an area outside of a Metropolitan Statistical Area), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures; or

B. Hospital treats inpatients who are predominantly individuals under 18 years of age; or

C. Hospital did not offer nonemergency obstetric services to the general population as of December 22, 1987; and

D. Effective November 3, 1997, be a small rural hospital as defined in Section III.B. Hospital has a utilization rate in excess of either of the following specified minimum utilization rates:

1. *Medicaid Utilization Rate*—a fraction (expressed as a percentage), the numerator of which is the hospital's number of Medicaid (Title XIX) inpatient days and the denominator of which is the total number of the hospital's inpatient days for a cost-reporting period. Hospitals shall be deemed disproportionate share providers if their Medicaid utilization rates are in excess of the mean, plus one standard deviation of the Medicaid utilization rates for all hospitals in the state receiving payments; or

2.a. *Low-Income Utilization Rate*—the sum of:

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

ii. the fraction (expressed as a percentage), the numerator of which is the total amount of the hospital's charges for inpatient services which are attributable to charity (free) care in a period, less the portion of any cash subsidies as described in Section II.D.2.a in the period, which are reasonably attributable to inpatient hospital services; and the denominator of which is the total amount of the hospital's charges for inpatient hospital services in the period. For public providers furnishing inpatient services free of charge or at a nominal charge, this percentage shall not be less than zero. This numerator shall not include contractual allowances and discounts (other than for indigent patients ineligible for Medicaid), i.e., reductions in charges given to other third-party payers, such as HMOs, Medicare, or Blue Cross; nor charges

attributable to Hill-Burton obligations. A hospital providing "free care" must submit its criteria and procedures for identifying patients who qualify for free care to the Bureau of Health Service Financing for approval. The policy for free care must be posted prominently and all patients must be advised of the availability of free care and procedures for applying.

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

E. In addition to the qualification criteria outlined in Section II.A.-D, effective July 1, 1994, the qualifying disproportionate share hospital must also have a Medicaid inpatient utilization rate of at least 1 percent.

III. Reimbursement Methodologies

A. Public State-Operated Hospitals

1. *Public State-Operated Hospital*—a hospital that is owned or operated by the State of Louisiana.

2. DSH payments to individual public state-owned or operated hospitals are equal to 100 percent of the hospital's net uncompensated costs subject to the adjustment provision in Section III.A.3. Final payment will be based on the uncompensated cost data per the audited cost report for the period(s) covering the state fiscal year.

3. In the event it is necessary to reduce the amount of disproportionate share payments to remain within the federal disproportionate share allotment or the state DSH appropriated amount, the department shall calculate a pro rata decrease for each public (state) hospital based on the ratio determined by dividing that hospital's uncompensated cost by the total uncompensated cost for all qualifying public hospitals during the state fiscal year and then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate allotment or state DSH appropriated amount.

B. Small Rural Hospitals

1. *Small Rural Hospital*—a hospital (other than a long-term care hospital, rehabilitation hospital, or freestanding psychiatric hospital but including distinct part psychiatric units) meeting the following criteria:

a. meets the qualifications of a sole community hospital under 42 CFR §412.92(a); or

b. had no more than 60 hospital beds as of July 1, 1994, and:

i. is located in a parish with a population of less than 50,000; or

ii. is located in a municipality with a population of less than 20,000.

2. Payment is based on uncompensated cost for qualifying small rural hospitals in the following two pools:

a. *Public (Nonstate) Small Rural Hospitals*—small rural hospitals as defined in Section III.B.1, which are owned by a local government.

b. *Private Small Rural Hospitals*—small rural hospitals as defined in Section III.B.1, that are privately owned.

3. Payment is equal to each qualifying rural hospital's pro rata share of uncompensated cost for all hospitals meeting these criteria for the cost reporting period ended during the

period April 1 through March 31 of the preceding year, multiplied by the amount set for each pool. If the cost reporting period is not a full period (12 months), actual uncompensated cost data from the previous cost reporting period may be used on a pro rata basis to equate a full year.

4. A pro rata decrease necessitated by conditions specified in Section I.B. for rural hospitals described in Section III will be calculated using the ratio determined by dividing the qualifying rural hospital's uncompensated costs by the uncompensated costs for all rural hospitals in Section III, then multiplying by the amount of disproportionate share payments calculated in excess of the federal DSH allotment or the state DSH appropriated amount.

C. All Other Hospitals (private and public nonstate rural hospitals over 60 beds, all private urban hospitals, freestanding psychiatric hospitals exclusive of state hospitals, rehabilitation hospitals and long-term care hospitals)

1. Annualization of days for the purposes of the Medicaid days pools is not permitted. Payment is based on actual paid Medicaid days for a six-month period ending on the last day of the last month of that period, but reported at least 30 days preceding the date of payment. Amount will be obtained by DHH from a report of paid Medicaid days by service date.

2. Payment is based on Medicaid days provided by hospitals in the following two pools:

a. *Acute Care Hospitals*—acute care, rehabilitation, and long-term care hospitals not described in Section III.A and B (excluding distinct part psychiatric units).

b. *Psychiatric Hospitals*—Freestanding psychiatric hospitals and distinct part psychiatric units not included in Section III.A and B.

3. Disproportionate share payments for each pool shall be calculated based on the product of the ratio determined by dividing each qualifying hospital's actual paid Medicaid inpatient days for a six-month period ending on the last day of the month preceding the date of payment (which will be obtained by DHH from a report of paid Medicaid days by service date) by the total Medicaid inpatient days obtained from the same report of all qualified hospitals in the pool, and multiplying by an amount of funds for each respective pool to be determined by the director of the Bureau of Health Services Financing. Total Medicaid inpatient days include Medicaid nursery days but do not include skilled nursing facility or swing-bed days. Pool amounts shall be allocated based on the consideration of the volume of days in each pool or the average cost per day for hospitals in each pool.

4. A pro rata decrease necessitated by conditions specified in Section I.B. for hospitals described in Section III will be calculated based on the ratio determined by dividing the hospitals' Medicaid days by the Medicaid days for all qualifying hospitals in Section III, then multiplying by the amount of disproportionate share payments calculated in excess of the federal disproportionate share allotment or the state disproportionate share appropriated amount.

David W. Hood
Secretary

9803#033

RULE

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

Home and Community Based Services Waiver Program—Mentally Retarded/Developmentally Disabled

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the Waiver Programmatic Allocation and Discharge Criteria as follows:

A. Programmatic Allocation of Waiver Slots. The waiting list shall be used to protect the individual's right to be evaluated for waiver eligibility. The Office for Citizens with Developmental Disabilities (OCDD) shall notify the next individual on the waiting list in writing that a slot is available and that they are next in line to be evaluated for possible waiver slot assignment. A copy of the notification letter shall be forwarded to the regional Health Standards Office. The individual then chooses a case manager who will assist in the gathering of the documents needed for both the financial and medical certification eligibility process. If the individual is determined to be ineligible either financially or medically, that individual is notified in writing and a copy of the notice is forwarded to the regional OCDD office. The next person on the waiting list is notified as stated above and the process continues until an eligible person is encountered. A waiver slot is assigned to an individual when eligibility is established and the individual is certified. Utilizing these procedures, waiver slots shall be allocated to the targeted groups cited below as follows:

1. - 3. ...

4. A maximum of 160 slots shall be available for allocation to current residents of the Pinecrest and Hammond Developmental Centers or their alternates who successfully complete the financial and medical certification eligibility process and are certified for the waiver. The term *alternate* is defined as a current resident of a private ICF/MR community home who:

a. willingly chooses to apply for waiver participation; and

b. resides in a community group home that has agreed to accept a Pinecrest or Hammond Developmental Center resident for placement if a resident of the community home is certified for waiver participation.

i. The Pinecrest or Hammond Developmental Center resident must be given freedom of choice in the

selection of a private ICF-MR community home placement in the area of the resident's choice based on availability of a slot.

ii. The slot in the community home, if vacated, will remain a slot for a Pinecrest or Hammond Developmental Center recipient as long as the department continues to transition individuals from the developmental centers. DHH, through OCDD, reserves the right of approval for the transitioning of these recipients into vacated slots.

5. A maximum of 78 slots shall be available for allocation to current residents of public or private community homes who successfully complete the financial and medical certification eligibility process and are certified for the waiver.

B. Waiver Discharge Criteria. Participants will be discharged from the MR/DD Waiver Program if one of the following criteria is met:

1. - 7. ...

8. continuity of services is interrupted as a result of the participant not receiving waiver services during a period of 30 or more consecutive days. This does not include interruptions in services because of hospitalization.

David W. Hood
Secretary

9803#065

RULE

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

**Medicaid Eligibility—Continuity of Stay for Long-Term
Care and Home and Community Based Services**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following requirement governing continuity of stay for the purpose of determining continued eligibility under the special income level for long-term care and home and community based services. In addition, the adoption of this proposed rule revises the continuity of stay requirement contained in Section I of the Medicaid Eligibility Manual as follows:

A temporary absence from a facility or nonreceipt of waiver services shall be allowed for a period up to 30 consecutive days before continuity of stay will be considered interrupted for individuals eligible under the special income level.

David W. Hood
Secretary

9803#031

RULE

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

**Nursing Facilities—Standards of
Levels of Care (LAC 50:II.10155)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq. and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Nursing Facilities

* * *

Subchapter G. Levels of Care

§10155. Standards of Levels of Care

A. - S.3.e. ...

T. Change in Level of Care Within a NF. The facility shall be responsible for submitting current medical information to the HSS Regional Office for approval when the attending physician recommends a change in the level of care. Form 149-B shall be completed when making the request for a level of care change. This procedure shall be followed whether the change is within the facility or whether the change requires a transfer to another facility. A statement from the physician, in lieu of Form 149-B, is not acceptable.

1. The facility shall have 20 working days to submit Form 149-B to the Health Standards Section for both upgrades and downgrades in level of care. If submitted within the 20 working day time frame, the effective date of change in medical certification will be the date the physician signs the Form 149-B.

2. If the facility fails to timely submit the request, the effective date of the medical certification will be the date the Form 149-B is received in the HSS Regional Office.

3. The completion of the Form 149-B is also required when a resident transfers to Medicare skilled level.

4. The Medicaid Program will pay co-insurance beginning on the twenty-first day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:34 (January 1996), amended LR 23: 970 (August 1997), LR 24:457 (March 1998).

David W. Hood
Secretary

9803#032

RULE

**Department of Natural Resources
Office of Conservation**

Fees (LAC 43:XIX.Chapter 7)

Pursuant to power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and the Administrative Procedure Act, Title 49, Sections 950 through 968 of the Revised Statutes of 1950, as amended, the following rules are hereby amended by the commissioner of Conservation. These amendments are considered reasonably necessary to conserve the natural resources of the state, to prevent waste as defined by law, to avoid the drilling of unnecessary wells, and to otherwise carry out the laws of this state.

Title 43

NATURAL RESOURCES

Part XIX. Office of Conservation—General Operations

Subpart 2. Statewide Order No. 29-R

Chapter 7. Fees

§701. Definitions

Annual Inspection Fee—repealed.

* * *

[See Prior Text *Application Fee-Application to Process Form R-4*]

BOE—annual Barrels Oil Equivalent. Gas production is converted to BOE by dividing annual mcf by a factor of 8.

Capable Gas—natural and casinghead gas not classified as incapable gas well gas or incapable oil well gas by the Department of Revenue.

Capable Oil—crude oil and condensate not classified as incapable oil or stripper oil by the Department of Revenue.

Class I Well—a Class I injection well used to inject hazardous, industrial, or municipal wastes into the subsurface, which falls within the regulatory purview of Statewide Order Nos. 29-N-1 or 29-N-2.

Class I Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, on Class I wells in an amount not to exceed \$336,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

Class II Well—a Class II injection well which injects fluids which are brought to the surface in connection with conventional oil or natural gas production (Status 63), for annular disposal wells (Status 64), for enhanced recovery of oil or natural gas (Status 41, 42, 43, 50), and for storage of hydrocarbons which are liquid at standard temperature and pressure (Status 44, 47). For purposes of administering the exemption provided in R.S. 30:21(B)(1)(c), such exemption is limited to operators who operate Class II wells serving a stripper oil well or an incapable gas well certified pursuant to R.S. 47:633 by the severance tax division of the Department of Revenue and located in the same field as such Class II well.

Class II Well Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office

of Conservation, on nonexempted Class II wells in an amount not to exceed \$493,000 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000.

* * *

[See Prior Text *Emergency Clearance*]

Production Fee—an annual fee payable to the Office of Conservation, in a form and schedule prescribed by the Office of Conservation, by oil and gas operators on capable oil wells and capable gas wells based on a tiered system to establish parity between the producing wells. The tiered system shall be established annually by rule on annual volumes of capable oil and capable gas production in an amount not to exceed \$1,918,600 for Fiscal Year 1997-1998, and may increase by a sum not to exceed 3½ percent annually for Fiscal Years 1998-1999 and 1999-2000. Incapable oil, stripper oil, incapable gas well gas and incapable oil well gas shall be exempt from this fee.

* * *

[See Prior Text *Production Well-Type B Facility*]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:542 (August 1988), amended LR 15:551 (July 1989), LR 21:1249 (November 1995), LR 24:458 (March 1998).

§703. Fee Schedule for Fiscal Year 1997-1998

A. Application Fees

Application for Unit Termination	\$ 210
Application for Substitute Unit Well	\$ 210
Application for Public Hearing	\$ 630
Application for Multiple Completion	\$ 105
Application to Commingle	\$ 210
Application for Automatic Custody Transfer	\$ 210
Application for Noncommercial Injection Well	\$ 210
Application for Commercial Class I Injection Well	\$ 1,050
Application for Commercial Class I Injection Well (Additional Wells)	\$ 525
Application for Commercial Class II Injection Well	\$ 525
Application for Commercial Class II Injection Well (Additional Wells)	\$ 262
Application for Permit to Drill - Minerals: 0' - 3,000'	\$ 105
Application for Permit to Drill - Minerals: 3,001' - 10,000'	\$ 525
Application for Permit to Drill - Minerals: 10,001'+	\$ 1,050
Application to Amend Permit to Drill - Minerals	\$ 105
Application to Amend Permit to Drill - Injection or Other	\$ 105
Application for Surface Mining Exploration Permit	\$ 52
Application for Surface Mining Development Operations Permit	\$ 78
Application for Surface Mining Permit	\$ 1,837
Application to Process Form R-4	\$ 26

Application to Reinstate Suspended Form R-4	\$ 52
Application for Emergency Clearance Form R-4	\$ 52

B. Regulatory Fees

1. Operators of each permitted Type A Facility are required to pay an annual Regulatory Fee of \$5,250 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

2. Operators of each permitted Type B Facility are required to pay an annual Regulatory Fee of \$2,625 per facility. Such payments are due within the timeframe prescribed by the Office of Conservation.

3. Operators of record of Class I wells are required to pay \$8,000 per well.

4. Operators of record of nonexempt Class II wells are required to pay \$300 per well.

C. Production Fees. Operators of record of capable oil wells and capable gas wells are required to pay according to the following annual production fee tiers:

Annual Production (Barrel Oil Equivalent)		Fee (\$ Per Well)
Tier 1	0	0
Tier 2	1—5,000	30
Tier 3	5,001—15,000	60
Tier 4	15,001—30,000	175
Tier 5	30,001—60,000	350
Tier 6	60,001—110,000	700
Tier 7	110,001—9,999,999	1,300

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:543 (August 1988), amended LR 15:552 (July 1989), LR 21:1250 (November 1995), LR 24:458 (March 1998).

§705. Failure to Comply

Operators of operations and activities defined in §701 are required to timely comply with this Order. Failure to comply within 30 days past the due date of any required fee payment will subject the operator to civil penalties under the provisions of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as well as penalties provided in other sections of Title 30, including R.S. 30:18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998).

§707. Severability and Effective Date

A. The fees set forth in §703 are hereby adopted as individual and independent rules comprising this body of rules designated as Statewide Order No. 29-R, and if any such individual fee is held to be unacceptable, pursuant to

R.S. 49:968(H)(2), or held to be invalid by a court of law, then such unacceptability or invalidity shall not affect the other provisions of this order which can be given effect without the unacceptable or invalid provisions, and to that end the provisions of this order are severable.

B. This order (Statewide Order No. 29-R) supersedes Statewide Order No. 29-Q-2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:21 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 14:544 (August 1988), amended LR 15:552 (July 1989), LR 21:1251 (November 1995), LR 24:459 (March 1998).

Warren A. Fleet
Commissioner

9803#025

RULE

**Department of Public Safety and Corrections
Liquefied Petroleum Gas Commission**

Liquefied Petroleum Gas Dealers; New Dealers; Container Manufacturers; Forms/Reports; Installation at Schools/Public Assembly Places; and Standards (LAC 55:IX.Chapters 1, 2, and 12)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 40:1846 relative to the authority of the Liquefied Petroleum Gas Commission to make and enforce reasonable rules and regulations governing the storage, sale, and transportation of liquefied petroleum gases, the commission hereby amends, repeals, and adopts the following comprehensive set of rules.

Title 55

PUBLIC SAFETY

Part IX. Liquefied Petroleum Gas

Chapter 1. General Requirements

Subchapter A. New Dealers

§103. Definitions

The following terms, as used in this Part, have the meanings listed below:

Appliance—any device that utilizes gas as a fuel or raw material to produce light, heat, power, refrigeration, or air conditioning.

Applicant—a person, firm, or corporation who has applied for a permit or registration with the Liquefied Petroleum Gas Commission.

Approved—approved by or acceptable to the *authority having jurisdiction*. This normally means that equipment or materials that are listed or labeled have been specifically approved by the *authority having jurisdiction*.

ASME—American Society of Mechanical Engineers.

Authority Having Jurisdiction (AHJ)—the organization, office, or individual responsible for approving equipment, an installation, or a procedure. In Louisiana the AHJ is the Liquefied Petroleum Gas Commission, the Office of the Director of the Liquefied Petroleum Gas Commission.

Cargo Tank—a container used to transport liquefied

petroleum gas over a highway as liquid cargo, either mounted on a conventional truck chassis or as an integral part of a transporting vehicle in which the container constitutes in whole, or in part, the stress member used as a frame.

Container—any vessel, including cylinders, tanks, portable tanks, and cargo tanks used for the transporting or storing of liquefied petroleum gas.

Dealer or Permit Holder—any person, firm, or corporation who holds a permit or registration to enter into any phase of the liquefied petroleum gas business in the state of Louisiana.

End User—any person, firm, or corporation which has the use of or legal authority or control over any system which utilizes liquefied petroleum gas.

Installation—when used in the context of an existing thing, the same as system or liquefied petroleum gas system (see definition of *system* or *liquefied petroleum gas system*).

Installation—when used in the context of an action, the art of installing or setting up for use or service.

Labeled—equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization that is acceptable to the *authority having jurisdiction* and concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials and by whose labeling manufacturer indicates compliance with appropriate standards or performance in a specified manner.

Listed—equipment or materials included in a list published by an organization acceptable to the *authority having jurisdiction* and concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been listed and found suitable for use in a specified manner.

New Dealer—any person, firm, or corporation that does not hold a permit or registration to engage in the liquefied petroleum gas business as of the date of their application.

Places of Public Assembly—places where the egress is open to the public. This definition includes, but is not limited to, bars, restaurants, service stations, grocery stores, schools, churches, hospitals, sales offices, nursing homes, and other similar places. This definition is not intended to include places that limit public access.

Pressure Test—an operation performed to verify the gas tight integrity of gas piping following its installation or modification.

Qualified Agency—any person, firm, or corporation which is engaged in and is responsible for the installation or replacement of liquefied petroleum gas piping, tanks, containers, the connection, installation, repair, or servicing of equipment or appliances and is experienced in such work and familiar with all precautions required and has complied with all the requirements of the authority having jurisdiction.

Reseller or Wholesaler—

a. any person, firm, or corporation who holds title or ownership of liquefied petroleum gas as it leaves the facility or plant:

i. of a manufacturer of liquefied petroleum gas;

ii. of a manufacturer of products of which liquefied petroleum gas forms a component part; or

iii. of a commercial storage facility.

b. any person, firm, or corporation who transfers such title or ownership to another without substantially changing the form of such liquefied petroleum gas; or

c. any person, firm, or corporation who transfers such title or ownership to a retail dealer for sale at retail.

i. this definition shall include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers directly to a retail dealer for sale at retail.

ii. this definition shall not include a manufacturer of liquefied petroleum gas or a manufacturer of products of which liquefied petroleum gas forms a component part, if title or ownership transfers to a reseller.

Retail Dealer—any person, firm, or corporation who normally sells liquefied petroleum gas to an end user for consumption.

Retail Station—that portion of property where liquefied petroleum gases used as motor fuel are stored and dispensed from fixed equipment into liquefied petroleum gas fuel tanks of motor vehicles and where such dispensing is an act of retail motor fuel sale.

System or Liquefied Petroleum Gas System—any tank, container, heat or cold producing device, appliance or piping that utilizes or has liquefied petroleum gas connected thereto. This includes, but is not limited to, ranges, hot water heaters, heaters, air conditioners, containers, tanks, furnaces, space heaters or piping used in the transfer of liquefied petroleum gas either in the vapor or the liquid state from one point to another, internal combustion engines, both stationary and mobile, grain dryers or any combination thereof.

Tank(s)—same as a *container(s)*.

Used Manufactured Home—a manufactured home which is not being sold or offered for sale as new, which has been previously sold as new and is used for residential purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:459 (March 1998).

§105. Applications

Any person, firm, or corporation desiring to enter the liquefied petroleum gas business in the state of Louisiana must file formal application with the Liquefied Petroleum Gas Commission. Application must be filed for Class I, 90 days, and for Classes II, III, IV, V, VI, VII, VIII, and IX, 30 days, prior to the date of the commission meeting the application is to be heard. Applications for Class VI-X, VII-E, R-1 and R-2 registrations have no delay prior to granting of a permit. Presence of the applicant or his authorized representative is required at the commission meeting when the application is heard, except in the cases of VI-X, VII-E and R-1 and R-2 registrations where appearance is waived. In no case will the applicant's supplier be the authorized representative. Only

with special approval of the commission, under extenuating circumstances, will the commission allow the applicant to be represented by another party, other than a principal officer, director, manager, or attorney. The application forms will be furnished by the commission upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 24:460 (March 1998).

§107. Requirements

Before any permit or registration can be issued from the office of the director all applicants must have complied with or agree to comply with the applicable requirements as follows:

1. Must deposit filing fee of \$100 for Class I and IV; \$50 for Class VI-X and \$25 for all other classes and registrations. This fee must accompany application;

2. - 4.b. ...

5.a. Where applicable, applicant must provide adequate transport and delivery trucks satisfactory to the commission. Each transport and/or delivery truck shall be inspected annually by the commission or other qualified agency acceptable to the commission. Each transport and/or delivery truck shall be equipped with at least two fire extinguishers of the dry chemical types having an aggregated capacity of not less than 24 pounds. Each transport and/or delivery truck shall have an annual registration fee of \$25 paid and a valid registration decal affixed to the transport or deliver truck.

b. All sketches of proposed installations, as required in other sections of these regulations, shall be submitted to the Office of the Director, showing all details of the proposed installation governed by these regulations. Sketches or drawings must be submitted to the Office of the Director and approved before installation can begin. The commission reserves the right to make a final inspection and witness a pressure test by an inspector of the Liquefied Petroleum Gas Commission.

6. Applicant must have paid permit fee in the amount of \$75, except for a Class VIII, which shall be \$100, to the Liquefied Petroleum Gas Commission of the State of Louisiana. For all succeeding years the permit fee shall be ¼ of 1 percent of gross annual sales of liquefied petroleum gases with a minimum of \$75. For classes not selling liquefied petroleum gas in succeeding years the permit fee shall be \$75. For registrations the permit fee shall be \$37.50 per year.

a. Each Class I and Class IV dealer shall submit to the commission by the twentieth of the following month, a report in a form acceptable to the commission, the previous month's purchases and sales in gallons and dollars.

b. The report shall contain the purchases and sales by company name, except in the case of Class I dealers sales, which will be by total gallons and total dollars.

c. Any information so furnished shall be considered and held confidential and privileged by the Liquefied Petroleum Gas Commission, its director and/or his employees.

7. ...

8. All service and installation personnel, fuel transfer personnel, carburetion mechanics and tank truck drivers must have a card of competency from the Office of the Director. A card of competency will be issued to an applicant upon receipt of a \$10 examination fee and successfully completing the competency test, providing the applicant holds some form of identification acceptable to the commission. The commission may accept as its own a reciprocal state's examination which contains substantially equivalent requirements. This must be evidence by a letter from the issuing authority or a copy of a valid card issued by the reciprocal state. All applicable fees must be paid prior to issuing the card.

8.a. - b. ...

9. - 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 1:315 (July 1975), LR 4:86 (March 1978), LR 7:633 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 15:854 (October 1989), LR 16:1063 (December 1990), LR 20:1400 (December 1994), LR 24:461 (March 1998).

§113. Classes of Permits and Registrations

The Liquefied Petroleum Gas Commission will issue upon application the following classes of permits and registrations upon meeting all applicable requirements of §107 and the following:

1. Class I. Holders of these permits may enter any phase of the liquefied petroleum gas business.

a. Must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

i. products property damage liability;

ii. products public liability;

iii. manufacturer's and contractor's property damage liability;

iv. manufacturer's and contractor's public liability;

v. automobile public liability;

vi. automobile property damage.

b. Holders of these permits must provide a storage capacity for liquefied petroleum gas of not less than 15,000 gallons in one location, under fence, located within the dealer trade area within the state of Louisiana, and must show evidence of ownership of storage tank or a bona fide lease of five years minimum. This requirement shall not be retroactive.

c. Where fuel is used direct from cargo tank an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

d. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

e. Compliance with all other applicable rules and regulations will be required.

f. The name of the dealer must appear on all tank trucks, storage tank sites, and/or advertising being used by the dealer. At consumer premises, where the tank or the container is owned by the dealer, the dealer's name shall be affixed. This requirement is considered met if documentation is provided, upon demand, that the dealer's name was affixed at the time of installation. Consumer premises requirement is not retroactive.

g. - o. Repealed.

2. Class II. Holders of these permits may install, and service liquefied petroleum gas containers, piping, and appliances, but shall not deliver gas. This class will also apply to the installation and service of liquefied petroleum gas containers, piping, and appliances on mobile homes, motor homes, travel trailers or any other recreational vehicles.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. The obligation of the manufacturers and dealers of mobile homes, motor homes, travel trailers, or any recreational vehicles is to comply with all safety standards and perform all safety tests on mobile homes, motor homes, travel trailers, or any recreational vehicles using liquefied petroleum gas.

c. Upon delivery of a mobile home, motor home, travel trailer, or any other recreational vehicle, new or used, the required inspection and testing of any liquefied petroleum gas system and appliances shall be performed by the dealer, using liquefied petroleum gas in the system. An inspection report properly completed and signed by the customer must be sent to the director of the Liquefied Petroleum Gas Commission verifying that the tests were performed and that the pressure test was eye witnessed by the customer or his/her authorized representative.

d. The mobile home or recreational vehicle dealer is responsible to this commission to make the required inspection and test or make arrangements for it to be made by a qualified permit holder.

e. Compliance with all other applicable rules and regulations is required.

f. - k. Repealed.

3. Class III. Holders of these permits may sell, install and service liquefied petroleum gas appliances with any auxiliary piping. They shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;

iii. manufacturer's and contractor's property damage liability;

- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - h. Repealed.

4. Class IV. Resellers (Wholesalers)—Holders of these permits may deliver, sell and transport liquefied petroleum gas over the highways of the state but can deliver to dealers only; utilize aboveground steel storage and/or approved salt domes, shale and other underground caverns for storage of liquefied petroleum gas; do general maintenance work on their own equipment using qualified personnel; but may not sell or install systems and appliances.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - i. Repealed.

5. Class V. Carburetion Permit. Holders of these permits may install equipment, including containers, and service liquefied petroleum gas equipment used on internal combustion engines. They may not deliver liquefied petroleum gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. manufacturer's and contractor's property damage liability;
- ii. manufacturer's and contractor's public liability.

b. Compliance with all other applicable rules and regulations is required.

c. - h. Repealed.

6. Class VI. Holders of these permits may engage in the filling of approved cylinders and motor fuel tanks with liquefied petroleum gas on their premises, but shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.
- b. Compliance with all other applicable rules and regulations is required.
- c. - i. Repealed.

7. Class VI-X. Holders of these permits may engage in the exchange of approved liquefied petroleum gas cylinders on their premises, but shall not fill cylinders. They shall not deliver gas.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

b. Any current Class VI permit holder may convert to a Class VI-X permit by filing formal application with the Liquefied Petroleum Gas Commission and submitting a \$25 filing fee. Presence of the applicant at the commission meeting will be waived. Upon receipt of the application and filing fee, permit will be issued. No dealer can hold a Class VI and a Class VI-X permit at the same location.

c. Compliance with all other applicable rules and regulations is required.

d. - g. Repealed.

8. Class VII. Holders of these permits may transport liquefied petroleum gas by motor vehicle over the highways of the state of Louisiana but shall not sell product in the state. This permit may be secured from the Office of the Director upon receipt of the following:

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. automobile public liability;
- ii. automobile property damage.

b. Where fuel is used direct from cargo tank an approved valve with proper excess flow device shall be used. Connector to vehicle's engine shall be approved for such use and protected from mechanical injury.

c. No truck shall be parked on a street or highway at night in any city, town, or village, except for the purpose of serving a customer.

d. Compliance with all other applicable rules and regulations is required.

e. - k. Repealed.

9. Class VII-E. Holders of these permits may transport liquefied petroleum gas over the highways of the state of Louisiana but may not sell product in the state. These permits are valid only for 90 days from date of issuance and may be secured from the Office of the Director.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. automobile public liability;
- ii. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. ...

d. - g. Repealed.

10. Class VIII. Holders of these permits may store, transport and sell liquefied petroleum gas used solely in the cutting and metal working industry, sell and install piping and

containers for those gases and engage in the filling of approved ASME tanks, ICC or DOT containers used in the metal working industry.

a. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability;
- v. automobile public liability;
- vi. automobile property damage.

b. Compliance with all other applicable rules and regulations is required.

c. - k. Repealed.

11. Class IX. Holders of these permits may inspect, recertify and recondition DOT and ICC cylinders. They shall not sell or deliver liquefied petroleum gas or anhydrous ammonia.

a. Holders of these permits must obtain from U.S. Department of Transportation a Retesters Identification Number, and provide proof of such to the commission.

b. Holders of these permits must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability.

c. Holders of these permits must provide drawing and description of equipment to be installed to retest cylinders. Drawing and description must be submitted to the Office of the Director of the Liquefied Petroleum Gas Commission for his approval before installation.

d. Holders of these permits must maintain an accurate log of all cylinders that have been retested by date, size, manufacturer name, and serial number. The commission reserves the right to inspect such logs at any time through its representative.

e. Compliance with all other applicable rules and regulations is required.

f. - j. Repealed.

12. Registration I (R-1). Holders of these registrations must be a person, firm, or corporation who is engaged in the business of plumbing and holds a master plumber's license issued by the state of Louisiana. They may install liquefied petroleum gas or anhydrous ammonia piping and make alterations or modifications to existing piping systems. These registrations shall be issued by the Office of the Director upon meeting the applicable requirements of §107 and the following:

a. Holders of these registrations must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. manufacturer's and contractor's property damage liability;
- ii. manufacturer's and contractor's public liability.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989.

c. Compliance with all other applicable rules and regulations of the Liquefied Petroleum Gas Commission is required.

13. Registration 2 (R-2). Holders of these registrations must be a person, firm, or corporation engaged in the mechanical contracting business. They may install liquefied petroleum gas and/or anhydrous ammonia appliances and equipment, and make alterations or modifications to existing liquefied petroleum gas and/or anhydrous ammonia appliances and equipment. These registrations shall be issued by the office of the director upon meeting the applicable requirements of §107 and the following.

a. Holders of these registrations must furnish evidence of liability insurance in the minimum sum of \$100,000 covering each of the following classes of insurance, covering applicant's legal liability:

- i. products property damage liability;
- ii. products public liability;
- iii. manufacturer's and contractor's property damage liability;
- iv. manufacturer's and contractor's public liability.

b. Compliance with the provisions of NFPA Pamphlet Number 54 (*National Fuel Gas Code*) and NFPA Number 58 (*Standard for the Storing and Handling of Liquefied Petroleum Gas*) and ANSI K 61.1-1989.

c. Compliance with all other applicable rules and regulations of the Liquefied Petroleum Gas Commission is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended and promulgated LR 3:315 (July 1977), amended LR 7:633 (December 1981), LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:557 (May 1985), LR 12:841 (December 1986), LR 15:855 (October 1989), LR 16:1063 (December 1990), LR 19:904 (July 1993), LR 20:1400 (December 1994), LR 21:704 (July 1995), LR 24:461 (March 1998).

Subchapter B. Dealers

§115. Compliance with Rules and Act

All dealers must comply with R.S. 40:1841-1853 of the Revised Statutes, as amended, and the rules and regulations of the Liquefied Petroleum Gas Commission in order to obtain a permit or to avoid the revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 8:53 (January 1982), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:464 (March 1998).

§117. Revocation of Permits

A. The commission may revoke or suspend a permit only by a ruling of the commission based on an adjudication hearing held in accordance with the Administrative Procedure Act.

The following are causes for revocation or suspension of a permit:

1. when the commission has assessed two or more penalties against a dealer for wilful violation of or failure to comply with such rules and regulations provided the second or succeeding penalty or penalties have been imposed for violations of or failure to comply were committed after the imposition of the first penalty;

2. willful or knowing violation of a rule or regulation of the commission which endangers human life or health;

3. failure to properly odorize gas as required by R.S. 40:1846;

4. failure to provide insurance or proof of insurance as required;

5. failure to pay permit fees as required;

6. failure to pay any civil penalty imposed by the commission under provisions of R.S. 40:1846.1(E) within 30 days after the assessment becomes final.

B. The commission, after 15 days' notice to appear before it for trial and trial held, may impose a fine in lieu of revocation or suspension of a permit.

C. Any dealer who continues to operate after such permit is revoked or during period of such suspension shall be liable to prosecution under provisions hereof in the same manner as if no such permit had ever been issued.

D. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which violation which gave rise to the suspension or revocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:464 (March 1998).

§121. Expiration of Permit

After the expiration of a permit renewal fee date, by five days, any dealer continuing in operation without payment of the fee, as required by law, shall be considered as operating in violation of R.S. 40:1841-1853 of the Revised Statutes and the rules and regulations of the Liquefied Petroleum Gas Commission. The commission may invoke the applicable provisions of §117.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 16:1063 (December 1990), LR 24:464 (March 1998).

§123. Qualified Personnel

All service, installation, fuel transfer personnel, carburetion mechanics, transport and delivery truck drivers must have a card of competency from the Office of the Director. New employees must not make installations, service equipment, handle or deliver gas until they have passed the examination given by the Office of the Director or furnished proof to the Office of the Director of their qualifications by another

qualified agency acceptable to the commission and a card showing their competency has been issued to them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:464 (March 1998).

§125. Report Accident and Fires

A. Any accident involving a dealer in the liquefied petroleum gas business shall be reported by that dealer in writing to the office of the director as soon as possible but not later than 48 hours.

For example: accidents involving the transportation of gas, injury to employees, property damages, or injuries to other persons, etc.

B. Any fire in which liquefied petroleum gas is directly or indirectly involved must be reported in writing to the Office of the Director by the dealer servicing that installation within 48 hours of knowledge of the fire, preferably immediately, so that it can be investigated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998).

§127. Insurance

A. Insurance requirements for all persons, firms, or corporations with the same class permit or registration shall be the same. New dealer insurance requirements shall be the same as existing dealer requirements.

B. The commission may invoke the applicable provisions of §117 when insurance requirements are not met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998).

§133. Must Purchase Containers Manufactured by Manufacturers Acceptable to the Authority Having Jurisdiction

A. All liquefied petroleum gas containers purchased must be manufactured by a manufacturer acceptable to the Liquefied Petroleum Gas Commission. A list of such manufacturers will be furnished by the commission upon request.

B. A manufacturer of liquefied petroleum gas containers will be listed by the commission as acceptable when it has met or exceeded the requirements of Chapter 2, NFPA 58, 1995 Edition and provided documentation acceptable to the commission of the same.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:465 (March 1998).

§139. Liquefied Petroleum Gas Systems

A. A dealer shall not serve any liquefied petroleum gas system which the dealer knows is improperly installed or in a dangerous condition. All improper systems shall be corrected before the dealer services such system with fuel for the first time. A servicing dealer shall not be responsible for unauthorized changes in or failures of an existing system or connected appliances that have been tested, checked and found in compliance with commission rules and regulations.

1. - 4. Repealed.

B. In the interest of safety and for the protection of life and property, any end user who authorizes the maintenance and/or repair, installation, adjustment, and servicing of a liquefied petroleum gas system in the state of Louisiana shall insure that any person, firm, or corporation that may be employed and/or authorized to make such repairs has a current permit or registration and cards of competency from the Louisiana Liquefied Petroleum Gas Commission to perform maintenance and/or repair, installation, adjustment and/or servicing of that system.

C. Any end user authorizing any action listed in §139.B, where such actions are completed by any person, firm, or corporation other than the liquefied petroleum gas dealer who normally services the liquefied petroleum gas system, shall notify, as soon as possible, the servicing dealer authorized to service the affected liquefied petroleum gas system. This notification shall include:

1. name of the person, firm, or corporation that performed the service; and

2. actions taken to the affected liquefied petroleum gas systems such as adding piping, space heaters, and other such appliances. The end user shall make the described notification within five working days after completion of the action or before the liquefied petroleum gas system is next serviced with liquefied petroleum gas, whichever occurs first.

D. It is unlawful for any person, firm, or corporation to repair, install, adjust and/or service any liquefied petroleum gas system without meeting the requirements of the Louisiana Liquefied Petroleum Gas Commission.

E. No person, firm, or corporation, except the owner, thereof, or person, firm, or corporation authorized in writing by said owner, shall fill, refill, buy, sell, offer for sale, give, take, loan, dispose of, or traffic in, a liquefied petroleum gas container or tank.

F. No individual shall be subject to a criminal fine or imprisonment under §139 as a result of any willful and wrongful acts of a fellow employee or subordinate employee whose willful and wrongful act was carried out without the knowledge of the individual. Whoever is found to be guilty of any of the following acts shall be fined not more than \$50,000, or imprisoned with hard labor for not more than 10 years, or both:

1. willful or knowing violation of a rule or regulations of the commission which endanger human life or health;

2. failure to properly odorize gas as required by law and §129 of the rules and regulations of the Liquefied Petroleum Gas Commission.

G. Anyone violating §139 shall also be liable for all damages resulting from any fire or explosion involving that

shipment. The liability imposed by §139 may not be delegated by contract or practice to any transporter or subcontractor responsible for the transportation of the liquefied petroleum gas.

H. A permit may be suspended or revoked by the commission whenever the commission has assessed two or more penalties against a dealer for willful violation of, or failure to comply with, such rules and regulations, provided the second or succeeding penalty or penalties have been imposed for violations of, or failure to comply with the regulations of the commission committed after the imposition of the first penalty or forfeiture, reserving to the dealer the right to resort to the courts for reinstatement of the permit suspended or revoked. The commission may suspend or revoke the permit of any person who fails to pay any civil penalty imposed by the commission under the provisions of R.S. 40:1846.1(E) within 30 days after the assessment becomes final. Any dealer who continues to operate after such permit is revoked or during the period of such suspension shall be liable to prosecution under the provisions hereof in the same manner as if no such permit had ever been issued. A permit may be revoked or suspended only by a ruling of the commission based on adjudicatory hearing held in accordance with the Administrative Procedure Act. The commission may institute civil proceedings to enforce its rulings in the district court for the parish in which the commission is domiciled or in the district court for the parish in which the violation occurred.

I. No dealer shall service a liquefied petroleum gas system, tank or another dealer after having received notification by the commission that the system, tank or dealer is not in compliance with these rules and regulations. Mailing of an All Dealers (AD) letter which states that a system, tank or dealer is not in compliance, or certified letter stating the same shall constitute notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 15:860 (October 1989), LR 24:465 (March 1998).

Subchapter C. Manufacturers of Liquefied Petroleum Gas Containers

§147. Bond

All manufacturers of liquefied petroleum gas containers who would like to sell their containers in Louisiana must provide documentation, in writing, acceptable to the commission that their containers meet or exceed the requirements of Chapter 2, NFPA 58, 1995 Edition and other applicable rules and regulations of the commission. This documentation may be in the form of blueprints and specifications showing compliance with Chapter 2, NFPA 58, 1995 Edition requirements or and affidavit affirming the same. Upon meeting the requirement, the manufacturer's name will be added to the approved manufacturers list for Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public

Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:634 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:466 (March 1998).

§149. Blueprints and Specifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, repealed LR 24:466 (March 1998).

§151. Classification of Containers

Containers shall be designed and classified as provided in the applicable sections of the Chapter 2, National Fire Protection Association Pamphlet Number 58, 1995 Edition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, LR 7:634 (December 1981), amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:466 (March 1998).

Subchapter D. Forms and Reports

§159. Required Forms and Reports

The following are forms and/or reports required to be filed with the Office of the Director of the Liquefied Petroleum Gas Commission:

1. Installation Report—must be filed with Office of the Director by the twentieth day of the month following the month of installation, on all installations or reinstallations of DOT and/or ASME containers. In the case of bulk storage tank installations, the installation report must be filed at the time of installation. Pressure tests are required to be documented on the installation report when a container is installed or reinstalled. In other cases where pressure tests are required (See §167 and §175), the pressure tests may be filed with the commission on an installation report form and noted as such. Pressure tests are not required to be filed, except in the case of installation or reinstallation of a container, but documentation of pressure tests are required to be maintained by the dealer if it has not been documented to the commission.
2. Sketches—must be filed with the Office of the Director for initial approval and will be finally approved after installation by the Office of the Director prior to placing into service the following liquefied petroleum gas systems:
 - a. school buses/mass transit vehicles;
 - b. dealer bulk storages;
 - c. liquid withdrawal systems, except systems for private use;
 - d. places of public assembly, schools, churches, hospitals, nursing homes and other similar systems (either liquid or vapor systems);
 - e. automatic dispensers used for motor fuel as required by LAC 55:IX.163.C;
 - f. each location of Class VI-X permit holders.
3. Reports of fires and accidents required by §125.
4. Documentation as required by §147.
5. Proof of insurance or financial security as required by §107.A.3 or §107.A.3.a.
6. Drawings as required by §113.A.11.c.
7. Reports as required by §107.A.6.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Adopted by the Department of Public Safety, Liquefied Petroleum Gas Commission, November 1972, amended December 1974, amended by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 11:559 (May 1985), LR 15:861 (October 1989), LR 24:466 (March 1998).

§163. Automatic Dispensers Used for Motor Fuel

A. - B. ...

C. A sketch must be submitted to the Office of the Director detailing within 150 feet of the dispenser and the fuel storage container. This sketch must include distances to buildings, roads, streets, property lines, railways, other flammables and the details of the dispensing unit and be approved before installation. After installation and before use the installation must be inspected and the sketch finalized by the Office of the Director.

D. Installations of Automatic Dispenser

1. Hose length shall not exceed 18 feet.
2. Dispensing device shall be located 10 feet from any dispensing device for Class 1 liquids.
3. All piping shall be schedule 80 and all pipe fittings shall be forged steel having a minimum design pressure of 2,000 psi.
4. An excess flow valve shall be installed in the liquid and vapor piping in such a manner that displacement of the dispenser will result in the shearing of such piping on the downstream side of the excess flow valve.
5. Automatic dispensing system shall incorporate an Emergency Shut-off Valve (ESV) upstream from the pump, installed in accordance with its manufacturer's instructions.
6. The transfer hose downstream from the meter shall incorporate a pull-away device.
7. Each automatic dispensing system shall include a switch which requires the operator's constant manual activation to maintain a fuel flow. Overriding of such switch is prohibited.
8. Step-by-step operating instructions and fire emergency telephone numbers shall be posted in a conspicuous place in the immediate vicinity of the automatic dispenser.
9. Immediate vicinity of automatic dispenser shall be well lit during all hours of darkness.
10. A dealer who installs an automatic dispenser shall provide contractual purchaser with written instructions to operate dispenser. The contractual purchaser shall be cautioned to study and preserve such instructions and procedures, and to educate all those with access under his contract to the automatic dispenser in the proper operating procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:467 (March 1998).

§165. Measurement

A. All trucks delivering liquefied petroleum gas for domestic use shall be equipped with a suitable measuring

device which shall be used to accurately gauge the amount of gas placed in each system, either by meter or by weight.

B. Truck meters shall be calibrated at least once every two years or every one million gallons of gas delivered, whichever occurs first. Calibration reports shall be retained by the dealer in his truck file for at least three years. The commission reserves the right to review calibration reports upon demand.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1402 (December 1994), amended LR 24:467 (March 1998).

§166. Transport/Delivery Truck Registration Decals and Inspections

A. Dealers who operate transport/delivery trucks in the state of Louisiana shall file Form DPSP 8045 (R 5/97) with the Office of the Director between the dates of February 1 and April 30 each year and pay the required annual registration fees. New equipment and equipment not registered during this period must be registered before operating over the highways of the state. Upon payment of the required fee, a registration decal will be issued on Form 8044 (R 5/97) by the Office of the Director to be displayed on the registered equipment. It shall be a violation of the commission rules to operate a transport or delivery truck over the highways without the registration decal affixed.

B. Safety inspections are required of all transport or delivery trucks requiring registration and shall be made by:

1. Louisiana Liquefied Petroleum Gas Commission inspector; or
2. documentation acceptable to the Office of the Director that a safety inspection has been performed by an acceptable qualified agency. This inspection must be performed within three months before or three months after registration with the commission. It shall be a violation of the commission rules not to have the required inspection or documentation to the commission of the required inspection. Safety inspections by the Louisiana Liquefied Petroleum Gas Commission inspectors shall be free of charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 24:467 (March 1998).

§167. "Out-of-Gas Customers" or Interruption of Service Procedure

When a delivery of gas is made to any on-site container which is out of gas or liquefied petroleum gas service was interrupted, the servicing dealer shall follow the following procedure.

1. When "out-of-gas customer" is not present:
 - a. shut off the container service valve;
 - b. place a tag on the container and the residence, or the building or the equipment the container services, indicating the container is out-of-service. The tag shall inform the gas customer to contact a liquefied petroleum gas dealer or other qualified agency to perform a leak check or test on the system as required before turning on the container. Further action is

the responsibility of the customer. The customer has the choice of whether to call a qualified agency or assume the risk of turning it on himself.

2. When "out-of-gas customer" is present:

a. shut off the container service valve;
b. inform the gas customer the container is out of service and a qualified agency must perform a leak check or test on the system as required before turning on the container. Further action is the responsibility of the customer. The customer has the choice of whether to have the required check or test performed or assume the risk of turning it on himself.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:467 (March 1998).

§173. Regulator Installation

A two-stage regulator or an integral two-stage regulator shall be required on all fixed piping system that serve ½ psi appliance systems (11 in. w.c.). Single-stage regulators shall not be installed in fixed piping systems after June 30, 1997. Other requirements of NFPA 58, 1995 Edition, Section 3-2.6, as well as exceptions are applicable in Louisiana. Two-stage regulation shall not be retroactive to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:468 (March 1998).

§175. Pressure Test and Inspection Required

Pressure test and inspection of the system are required in the following cases and in the following manner.

1. New piping installation where no piping existed, no tank or appliances installed:

a. no underground piping shall be covered until after an inspection and pressure test are made;
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;
c. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

d. - e. Repealed.

2. New piping installation, where no piping existed, and installation of tank, without appliance installation or connection:

a. no underground piping shall be covered until after an inspection and pressure test are made;
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;
c. retest piping, with tank connected, with water column of operating pressure of system;
d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

3. New piping, where no piping existed, installation of a tank and installation or connection of appliances:

a. no underground piping shall be covered until after an inspection and pressure test are made;
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;
c. appliance inspected for correctness as to design, construction and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

4. Existing piping with additional piping added no tank or appliances installed or connected:

a. no underground piping shall be covered until after an inspection and pressure test are made;
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;
c. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

5. Existing piping with additional piping added and installation of tank without appliance, installation or connection:

a. no underground piping shall be covered until after an inspection and pressure test are made;
b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;
c. retest piping with tank connected with water column of operating pressure of system;
d. search for leak with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

6. Existing piping with additional piping added, installation of tank and installation or connection of appliance;

a. no underground piping shall be covered until after an inspection and pressure test are made;

b. with openings capped, test piping at 40 pounds per square inch air pressure for a period of at least 30 minutes. There shall be no loss of pressure;

c. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

d. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

e. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

7. Existing piping with installation of tank without appliances:

a. visually inspect container and piping;

b. test piping, with tank connected, with water column, of operating pressure of system;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files;

8. Existing piping with installation of tank and installation or connection of appliance:

a. visually inspect container and piping;

b. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Retest piping system and appliances, with tank connected, with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files.

9. Existing piping, tank and appliances, first time service of system by new dealer (new customer):

a. visually inspect container and piping;

b. appliance inspected for correctness as to design, construction, and performance. Appliances connected and adjusted. Test piping system and appliances with water column of operating pressure with a water manometer, ounce gauge, or equivalent by turning off all appliance valves and turning off gas at the tank. There shall be no loss of pressure in the piping system during this 15-minute test;

c. search for leaks with an approved leak detector or leak detector solution. The use of matches or open flame is prohibited;

d. the commission reserves the right to witness the pressure test through an inspector of the Liquefied Petroleum Gas Commission and/or be provided acceptable documentation upon demand that the pressure test was performed. Documentation is met if filed with the commission as provided in §159.A or maintained in writing by the dealer in his files;

e. when the new customer is not present and §175.A.9.a. - d cannot be performed. Service should be documented as required in an out-of-gas situation §167.A;

f. when the new customer is present but does not authorize the procedure of §175.A.9.a. - d the service should be documented as required in an out-of-gas situation of §167.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), LR 24:468 (March 1998).

§177. Appliance Installation and Connections

A. Use of Approved Appliances. Domestic and commercial gas consuming appliances shall not be installed unless their correctness to design, construction and performance is certified by one of the following:

1. - 2. ...

B. Appliance Installation and Connection

1. An appliance shall be installed in accordance with its manufacturer's instructions.

2. In the absence of complete manufacturer's instructions on installation of any appliances, installation shall be in accordance with the edition of NFPA Number 54 the *National Fuel Gas Code* adopted by the commission.

a. - b. Repealed.

C. Exceptions

1. Existing installations, where piping outlets and appliances were installed in accordance with regulations

which were in effect at the time of such installation, shall remain approved. This exception includes the removal of existing appliances for servicing or replacement of appliances with the same type or of equal or better quality. This exception does not allow adding new piping, appliance locations, or new appliances where there was no pre-existing appliance without meeting §177.A and B.

2. Installation of Heaters in Residences. The following liquefied petroleum gas room heaters may be installed in a residence that is a one- or two-family dwelling and that is not a manufactured home (mobile home) or a modular home:

a. a listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bathroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 6,000 Btu per hour, and combustion and ventilation air is provided in accordance with Paragraph 6.1(b) of the *National Fuel Gas Code, NFPA 54, 1992 Edition*;

b. a listed wall-mounted liquefied petroleum gas unvented room heater equipped with an oxygen depletion safety shut-off system may be installed in the bedroom of a residential one- or two-family dwelling provided that the input rating shall not exceed 10,000 Btu per hour, and combustion and ventilation air is provided in accordance with Paragraph 6.1(b) of the *National Fuel Gas Code, NFPA 54, 1992 Edition*.

3. Installation of Heaters in Used Manufactured Homes. Liquefied petroleum gas room heaters may be installed in used manufactured homes as follows: liquefied petroleum gas listed vented room heaters equipped with a 100 percent safety pilot and a vent spill switch or liquefied petroleum gas listed unvented room heaters equipped with factory equipped oxygen depletion safety shut-off system, but not in sleeping quarters or bathrooms; and when the installation of the heater is not prohibited by the appliance manufacturer's instructions and when the input rating of the room heater does not exceed 20 Btu per hour per cubic foot of space and combustion and ventilation air is provided as specified in Section 5.3 of the *National Fuel Gas Code, NFPA 54, 1992 Edition*.

4. Exceptions, other than those listed herein, shall be approved by the director of the Liquefied Petroleum Gas Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1403 (December 1994), amended LR 24:469 (March 1998).

Subchapter H. Specification for Liquefied Petroleum Gas Installations at Schools and Places of Public Assembly

§179. Requirements for Plans and Specifications

A. Sketches and specifications including plot plans shall be submitted to the Office of the Director of the Liquefied Petroleum Gas Commission for approval before installation.

B. Sketch and specifications must show the following:

1. type of building (frame, masonry, metal walls, etc.);
2. elevation from ground level to building;
3. the size and location of all gas piping and length of runs;

4. the size and location of the tank or container;
5. the location and Btu rating of all appliances;
6. the total Btu load;
7. all other details related to the proposed installation as required in §179.

C. The following is a clarification of the requirements for the replacement of tanks at schools and places of public assembly:

1. Where any additional piping or installation or change of an appliance occurs, it is necessary to submit new sketches to the Office of the Director of this commission.

2. Replacement of a storage tank or container by a smaller or larger capacity tank or container will require new sketches and approval from the Office of the Director.

3. Replacement of a tank or container of the same capacity at the same location will not require a new sketch.

4. In cases where a new sketch is not required, a letter stating the approximate information as to manufacturer, serial number, date of manufacture, capacity, and customer name and address will be accepted.

5. In all cases an installation report, as required, must be filed with the Office of the Director.

D. New sketches are not required when changing fuel suppliers of public assembly and no changes are made in the liquefied petroleum gas system.

E. The commission reserves the right to make a final inspection and witness a pressure test through an inspector of the Liquefied Petroleum Gas Commission before placing installation into service.

F. The minimum capacity of storage tanks or containers shall be 100 gallons capacity per each 100,000 Btu appliance load. Exceptions to this rule must be made by the director of this commission.

G. Fences are required for storage tanks or containers at all schools, nursing homes and churches. Fences may be required at other places of public assembly which are deemed necessary in the interest of public safety by the office of the director. All request for exemption from the requirement must be submitted, in writing, to the Office of the Director and approved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998).

Subchapter I. Adoption of Standards

§181. National Fire Protection Association Pamphlet Number 54 and 58

A. The Liquefied Petroleum Gas Commission hereby adopts the *National Fuel Gas Code, 1992 Edition*. The National Fire Protection Association designation is NFPA 54-1992. The American National Standards Institute, Inc. designation is ANSI Z223.1-1992. The Liquefied Petroleum Gas Commission also adopts the National Fire Protection Association's *Standard for the Storage and Handling of Liquefied Petroleum Gases, 1995 Edition*. The National Fire Protection Association designation is NFPA 58 - 1995. The American National Standards Institute, Inc. designation is ANSI/NFPA 58-1995.

B. The commission may adopt subsequent editions of these standards by a rule change in accordance with the Administrative Procedure Act.

C. Any published Liquefied Petroleum Gas Commission rules and regulations shall take precedence over the standards referenced and adopted in §181.A.

D. The commission reserves the right to make an exception to any rule adopted in §181.A, as it applies to local conditions as it deems necessary in the interest of public safety.

1. - 3. Repealed.

E. The following are exceptions to the standards referenced in §181.A:

1. with regard to §2.6.6, *Protective Coatings*, in NFPA 54-1992—galvanized pipe and fittings and copper pipe and fittings may be used;

2. with regard to §3.1.2, *Protection Against Damage*, in NFPA 54-1992—pipe may be buried to the depth of the frost line and shall be protected against such mechanical injury where necessary;

3. with regard to §3.1.3, *Protection Against Corrosion*, in NFPA 54-1992—the provisions of §3.1.3 shall be considered met in Louisiana when galvanized or copper pipe is used;

4. with regard to §2-2.6.6, *Name and Emergency Service Telephone Number*, in NFPA 58-1995—the provisions of §2-2.6.6 shall be considered met in Louisiana when dealer-owned tanks on consumer premises have the dealer's name affixed. Consumer-owned tanks require no markings. See §113.A.1.f of these rules.

5. with regard to §3-9.3.10, *Emergency Shut-off of Power*, in NFPA 58-1995—the provisions of §3-9.3.10 shall be considered met in Louisiana if the operator has provided an alternative to shut off power in the event of a fire, accident or other emergency other than the switch(es) or circuit breaker(s) located at the dispenser(s);

6. with regard to §3-3.6.b, *Alternative to Fencing*, in NFPA 58-1995—the provisions of §3-3.6.b shall be considered met in Louisiana, if, as an alternative to fencing the operating area, suitable devices are installed, that can lock the discharge end of the transfer hose valve, prevent unauthorized operation of the pumping equipment and protect against vehicle impact in accordance with good engineering practice acceptable to the commission;

7. with regard to §3-9.3.9, *Shut-off Valve on End of Transfer Hose*, in NFPA 58-1995—the provisions of §3-9.3.9 shall be considered met in Louisiana if a listed quick-acting shut off valve with positive lock off or a listed globe valve is installed at the discharge end of the transfer hose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 20:1404 (December 1994), amended LR 24:470 (March 1998).

Chapter 2. School Bus and Mass Transit Installations **[formerly Chapter 12]**

Editor's Note: This Chapter applies to liquefied petroleum gas systems supplying liquefied petroleum gas to propel school buses and mass transit vehicles.

§201. Applications and Sketches of School Bus and Mass Transit Vehicles

A. Prior to the initial installation of a liquefied petroleum gas system used as a motor fuel system on any school bus or mass transit vehicle, either public or private, an applicant (the end user or dealer) shall submit an application and sketch to the Office of the Director for review and approval. When the end user is the applicant, the dealer making the installation must be stated on the application.

B. After review of the application and approval of the sketch by the Office of the Director the liquefied petroleum gas system may be installed. Any modifications, except routine maintenance of the system, shall require a new sketch and approval by the Office of the Director.

C. A registration fee of \$10 must be submitted with the application which includes the first year registration decal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998).

§203. Inspections

A. The Liquefied Petroleum Gas Commission requires that a final inspection of all newly installed systems be made by the Office of the Director or an acceptable qualified agency prior to placing in service. This final inspection must be documented to the commission.

B. The Liquefied Petroleum Gas Commission reserves the right to make inspections of all liquefied petroleum gas systems at any time.

C. All school bus/mass transit vehicles which use liquefied petroleum gas as a motor fuel shall be registered with the Liquefied Petroleum Gas Commission and shall be inspected annually by the Office of the Director or an acceptable qualified agency. An annual renewal registration fee of \$10 shall be paid to the Liquefied Petroleum Gas Commission upon the required annual inspection.

D. A liquefied petroleum gas dealer shall not fuel any school bus/mass transit vehicle covered under this Chapter which has not been inspected as required or to which a current registration decal is not permanently affixed.

E. No liquefied petroleum gas system shall be placed into service which does not comply with this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:471 (March 1998).

§205. Installation of Liquefied Petroleum Gas Systems Used As Engine Fuel System for School Bus/Mass Transit Vehicles

Installation of a liquefied petroleum gas system used as engine fuel system for school bus/mass transit vehicles shall be in accordance with the applicable sections of NFPA Number 58, 1995 Edition, Chapter 8.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:1886 (August 1992), amended LR 24:471 (March 1998).

§207. Fueling

A. Vehicles covered in this Chapter are prohibited from being fueled at schools and other places of public assembly within 50 feet of the property line.

B. Vehicles are prohibited from being fueled while passengers are on board or while waiting to board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 24:472 (March 1998).

Chapter 12. School Bus/Mass Transit Installations [See new Chapter 2]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1846.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Liquefied Petroleum Gas Commission, LR 18:866 (August 1992), amended LR 20:1405 (December 1994), repealed LR 24:472 (March 1998).

Charles M. Fuller
Director

9803#026

RULE

Department of Public Safety and Corrections Office of Motor Vehicles

Compulsory Insurance (LAC 55:III.Chapter 17)

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby adopts rules pertaining to the implementation of the law authorizing the impoundment of motor vehicles when the operator is unable to provide proof of liability insurance to a law enforcement officer. The rules provide for the notice of violation issued by a law enforcement officer; service of the notice on the owner of the vehicle; administrative hearing rights; the revocation of registration privileges; the acceptable means of proving the motor vehicle is covered by a policy of liability insurance; the treatment of leased and rented motor vehicles; the treatment of the transfer of ownership of motor vehicles which have been the subject of a violation for no proof of insurance; and the procedure to be followed if a person desires a declaratory order or ruling regarding the compulsory insurance law.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 17. Compulsory Insurance

§1701. Definitions

As used in this Chapter, the following terms have the meanings described below.

Assistant Secretary—the assistant secretary of the Office of Motor Vehicles.

Department—the Department of Public Safety and Corrections, Office of Motor Vehicles.

New Owner—the person or persons who acquire, or who have previously acquired ownership of a motor vehicle that was the subject of a violation of this Chapter, but who do not

appear on the records of the department as the registered owner of such motor vehicle.

Operator—every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

Owner—a person who holds a legal title to a vehicle or in the event the vehicle is the subject of an agreement for the conditional sale, lease, or transfer of possession thereof with the right of purchase upon the performance of the conditions stated in the agreement, with the right of immediate possession in the vendee, lessee, possessor, or in the event such similar transaction is had by means of mortgage and the mortgagor of a vehicle is entitled to possession, then the conditional vendee, lessee, possessor, or mortgagor shall be deemed the owner for the purposes of this Chapter.

Person—an individual, partnership, corporation, limited liability company, or other legal entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:472 (March 1998).

§1703. Official Notification

A. The notice of noncompliance issued by a law enforcement officer to the operator of the motor vehicle at the time of the violation of R.S. 32:863.1 serves as official notification by the department that a violation of R.S. 32:863.1 has occurred, and such notice triggers all of the requirements for compliance contained in this Chapter and in R.S. 32:863.1 as are applicable.

B. Notification issued pursuant to this Chapter shall be on a form approved by the assistant secretary and shall include the following:

1. in those cases in which the motor vehicle is impounded, the notice shall inform the owner/operator that the motor vehicle shall remain impounded and the registration of the motor vehicle shall be revoked until such time as the owner provides satisfactory proof to the department that the motor vehicle is covered by a policy of liability insurance or such other security as is authorized by state law, and until such time as the owner pays all fees required by R.S. 32:863.1;

2. in those cases in which the motor vehicle is not impounded, the notice shall inform the owner/operator that the motor vehicle's registration will be revoked three days from the date the notice was issued, and the registration will remain revoked until such time as the owner provides satisfactory proof to the department that the motor vehicle is covered by a policy of liability insurance or such other security as is authorized by state law, and until such time as the owner pays all fees required by R.S. 32:863.1.

C. Any request for an administrative hearing must be submitted in writing to the Department of Public Safety and Corrections, Office of Motor Vehicles, Hearing Request, Box 64886, Baton Rouge, LA 70896-4886, or hand-delivered to the Office of Motor Vehicle Headquarters in Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:472 (March 1998).

§1705. Revocation of Registration Privileges

A. If the owner of the motor vehicle cited for being operated in violation of R.S. 32:863.1 provides proof of valid insurance in effect at the time of the violation within three days of the date of the violation, the registration for that motor vehicle shall not be revoked and the license plate shall be returned to the individual within 48 hours upon its receipt by the department.

B. If the owner of the motor vehicle cited for being operated in violation of R.S. 32:863.1 does not provide proof of valid insurance in effect at the time of the violation within three days of the date of the violation, the registration for that motor vehicle shall be revoked and the license plate shall be destroyed.

C.1. Any period of revocation shall begin on the fourth day after the date of the violation. The registration shall remain revoked until the owner of the motor vehicle complies with requirements of R.S. 32:863.1 and this Chapter.

2. If a license plate was seized at the time of the violation, and a new plate issued for the motor vehicle in question, a pickup order shall be issued for the new plate.

3. Nothing in this Chapter shall be construed as limiting or prohibiting the department from taking any other action against a registered owner of a motor vehicle who subsequently applied for a new plate, after the previous plate was seized pursuant to R.S. 32:863.1, without the registered owner first complying with the provisions of R.S. 32:863.1 and the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:473 (March 1998).

§1707. Proof of Insurance

A. The following are the only acceptable means of proving that the motor vehicle is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1 and the vehicle weighs 20,000 pounds or less:

1. proof of a liability insurance policy providing at \$10,000/\$20,000 bodily injury and \$10,000 property damage as provided in R.S. 32:900(B) by:

- a. the insurance identification card issued by the insurance company;
- b. the declaration page of the policy of insurance issued by the insurance company;
- c. the policy of liability insurance issued by the insurance company;
- d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof of an approved motor vehicle liability bond issued by a surety or insurance company in the amount of

\$30,000 with respect to the motor vehicle involved in the violation;

3. proof that a certificate was issued from the state treasurer stating that cash or securities in the amount of \$30,000 is on deposit with the state treasurer;

4. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042.

B. The following are the only acceptable means of proving that a motor vehicle with a gross weight of 20,001 pounds to 50,000 pounds is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1:

1. proof of a liability insurance policy providing at \$25,000/\$50,000 bodily injury and \$25,000 property damage as provided in R.S. 32:900(B):

- a. the insurance identification card issued by the insurance company;
- b. the declaration page of the policy of insurance issued by the insurance company;
- c. the policy of liability insurance issued by the insurance company;
- d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042;

3. proof of single state registration (current form RS-3);

4. proof of Public Service Commission authority (current Intra-State ID Cab Card); or

5. proof that a Certificate of Self-Insurance was issued by the Interstate Commerce Commission (ICC) under R.S. 32:900(M)(3).

C. The following are the only acceptable means of proving that a motor vehicle with a gross weight of more than 50,000 pounds is covered by a policy of liability insurance or other statutorily authorized security when the owner or his representative appears in an Office of Motor Vehicles office in order to show compliance with the compulsory insurance law as is required in R.S. 32:863.1:

1. proof of a liability insurance policy providing at \$100,000/\$300,000 bodily injury and \$25,000 property damage as provided in R.S. 32:900(B):

- a. the insurance identification card issued by the insurance company;
- b. the declaration page of the policy of insurance issued by the insurance company;
- c. the policy of liability insurance issued by the insurance company;
- d. documentation from an insurance agent indicating that a timely binder for coverage had been issued if it is shown to the satisfaction of the assistant secretary or his designee that the agent had the authority to bind coverage by the insurance company;

2. proof that a Louisiana Certificate of Self-Insurance was issued under R.S. 32:1042;

3. proof of single state registration (current form RS-3);
4. proof of Public Service Commission authority (current Intra-State ID Cab Card); or
5. proof that a Certificate of Self-Insurance was issued by the Interstate Commerce Commission (ICC) under R.S. 32:900(M)(3).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:473 (March 1998).

§1709. Proof of Insurance for Rental or Leased Motor Vehicles

A. For purposes of this Chapter, a rental motor vehicle is a motor vehicle which remains registered in the name of the rental company with the Office of Motor Vehicles.

B. For purposes of this Chapter, a leased motor vehicle is a motor vehicle or which is registered in the name of the lessee in addition to the name of the rental company with the Office of Motor Vehicles.

C. The law enforcement officer enforcing the provisions of R.S. 32:863.1 may contact the rental agent to determine if the rental agent wishes to retake possession of the motor vehicle. If the rental agent retakes possession of the motor vehicle, the rental motor vehicle shall not be impounded and the license plate of the rental motor vehicle shall not be seized.

D. A leased motor vehicle shall be subject to the impoundment provisions of R.S. 32:863.1 unless one of the exceptions applies.

E. No vehicle shall be subject to impoundment if the operator provides proof that he owns a motor vehicle which is covered by a policy of liability insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

§1711. Transfer of Title of a Vehicle Subject to the Provision of this Chapter

A. If the owner of a motor vehicle, which was the subject of a citation for violation of R.S. 32:863.1, desires to sell, donate, or transfer such motor vehicle, then the owner of such motor vehicle shall comply with the following:

1. there must be a bona fide sale, donation, transfer or assignment to a new owner of the motor vehicle which was the subject of a citation for violation of R.S. 32:863.1;

2. the new owner of the motor vehicle which was previously the subject of a citation for violation of R.S. 32:863.1 shall:

- a. apply for and obtain a certificate of title for the motor vehicle;
- b. pay the vehicle registration license tax; and
- c. provide proof that the motor vehicle is covered by a valid policy of liability insurance or such other security as authorized by §1707;

3. all fees required by R.S. 32:863.1 shall be paid prior to the department processing the title transaction.

B. The new owner of the motor vehicle may pay the fees owed by the previous owner of the motor vehicle who was

subject to the violation of R.S. 32:863.1, but the previous owner shall ultimately retain responsibility for the fees until the fees are paid to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

§1713. Declaratory Orders and Rulings

A. Any person desiring a ruling on the applicability of R.S. 32:863.1 or any other statute, or the applicability or validity of any rule, to the impoundment of motor vehicles for failing to have proof of liability insurance or other security shall submit a written petition to the assistant secretary. The written petition shall cite all constitutional provisions, statutes, ordinances, cases, and rules which are relevant to the issue presented or which the person wishes the assistant secretary to consider prior to rendering an order or ruling in connection with the petition. The petition shall be typed, printed or written legibly, and signed by the person seeking the ruling or order. The petition shall also contain the person's full printed name, the complete physical and mailing address of the person, and a daytime telephone number.

B. If the petition seeks an order or ruling on a transaction handled by the Office of Motor Vehicles, the person submitting the petition shall notify the person or persons who submitted the transaction, if other than the person submitting the petition. Such notice shall be sent by certified mail, return receipt requested. In such case, the petition shall not be considered until proof of such notice has been submitted to the assistant secretary, or until the person petitioning for the order or ruling establishes that the person or persons cannot be notified after a due and diligent effort. The notice shall include a copy of the petition submitted to the assistant secretary.

C. The assistant secretary may request the submission of legal memoranda to be considered in rendering any order or ruling. The assistant secretary or his designee shall base the order or ruling on the documents submitted including the petition and legal memoranda. If the assistant secretary or his designee determines that the submission of evidence is necessary for a ruling, the matter may be referred to a hearing officer prior to the rendering of the order or ruling for the taking of such evidence.

D. Notice of the order or ruling shall be sent to the person submitting the petition as well as the persons receiving notice of the petition at the mailing addresses provided in connection with the petition.

E. The assistant secretary may decline to render an order or ruling if the person submitting the petition has failed to comply with any requirement in §1713.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1 and R.S. 49:962.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

§1715. Severability

The provisions of each Section are severable. If any provision or item of Act 1486 of the 1997 Regular Session, amending R.S. 32:863.1 is held invalid, then those provisions

or items of Chapter 17 relating to those items or provisions of Act 1486 that are held invalid are severable, and such invalidity shall not affect other provisions, items, or applications of Chapter 17 which can be given effect without regard to any invalid provisions of Act 1486.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:863.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 24:474 (March 1998).

Thomas H. Normile
Undersecretary

9803#028

RULE

**Department of Public Safety and Corrections
Office of Motor Vehicles**

**Vehicle Registration License Tax
(LAC 55:III.351, 355, and 365)**

The Department of Public Safety and Corrections, Public Safety Services, Office of Motor Vehicles hereby amends LAC 55:III.351, 355, and 365 pertaining to the annual registration license tax for motor vehicles. Currently, the value of motor vehicles for the purpose of initial and subsequent registration is based on 75 percent of the retail value contained in the *N.A.D.A. Official Used Car Guide*. This rule bases the vehicle registration license tax on the full loan value of the *N.A.D.A.*

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 3. License Plates

Subchapter B. Vehicle Registration License Tax

§351. Definitions

As used in this Subchapter, the following terms have the meanings described below:

* * *

Low Bills of Sale—values determined to be below the full loan value as shown by the most current *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1323 (October 1997), amended LR 24:475 (March 1998).

§355. Valuation of Motor Vehicles for Purposes of Initial and Subsequent Registration on or after January 1, 1990

A. Except in cases of damaged motor vehicles, donations, out-of-state transfers, or low bills of sale, the value of the motor vehicle shall be determined by the purchase price as indicated on the bill of sale or invoice.

B. In the case of donations, out-of-state transfers, or low bills of sale, the value shall be determined and based upon the full loan value contained in the most current *N.A.D.A. Official*

Used Car Guide, South-Western Edition (or its successor) as maintained by the Office of Motor Vehicles. In the case of classic automobiles or other automobiles of particular interest not included in the *N.A.D.A. Official Used Car Guide, South-Western Edition* (or its successor), the full loan value shall be determined by reference to the *N.A.D.A. Official Older Used Car Guide* or the *Value Guide to CARS of Particular Interest*. If the value of the motor vehicle cannot be determined by reference to any of these three guide books, the actual value of the motor vehicle shall be determined by the Office of Motor Vehicles based upon such information supplied by the person seeking to register the vehicle and such information that may be required from such person by the assistant secretary or his designee.

C. The valuation of a damaged motor vehicle shall be the value of the motor vehicle at time of acquisition as determined pursuant to §355.C.1.-2. The following must be presented to the Office of Motor Vehicles to establish an actual value on such a vehicle of less than the full loan value:

1.a. an affidavit by the seller or transferor of the motor vehicle specifying in detail the nature of damage to the vehicle and a written invoice from a bona fide mechanic or repairman showing a detailed estimate of the cost of repair to said vehicle. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee may add the proven damages to the sales price of the motor vehicle as is reflected in the bill of sale submitted in connection with the application to register the motor vehicle. If the total of the proven damages and the sales price is within \$1,000 of the full loan value as determined in §355.B, the vehicle shall be valued according to the sales price. If the total of the proven damages and the sales price differs by more than \$1,000 from the full loan value as determined in §355.B, the value of the motor vehicle shall be determined by deducting the proven damages from the full loan value as determined in §355.B;

b. upon a showing of good cause by the person applying to register the damaged motor vehicle, the assistant secretary or his designee may assign a value other than the value established pursuant to §355.B. The applicant for registration shall provide the department with such documentation as is necessary to justify this alternative valuation;

2. if the seller is a licensed new or used motor vehicle dealer, then the dealer or an employee of such dealer shall submit an affidavit specifying the nature of the damage and the sale price. The assistant secretary or his designee may require additional information or documentation to determine the value of the motor vehicle. Upon review of all documentation and information, the assistant secretary or his designee shall calculate the value of the motor vehicle in the same manner and under the same conditions as provided in §355.C.1.

D. Motor vehicles, the ownership of which is reacquired by the original owner within a period of two years from date of original acquisition, shall be registered at the original value upon renewal or registration by the original owner. Upon a

showing of good cause by the person seeking to register the motor vehicle, the assistant secretary of the Office of Motor Vehicles may permit the vehicle to be valued as provided in §355.B-C, as the case may be.

E. Additional documentation may be required of any applicant for license or registration, including renewals, by the assistant secretary of the Office of Motor Vehicles or his designee.

F. In the case of high mileage, the loan value of the motor vehicle may be reduced according to the deduction contained in the guide book depending on the model year, the type of motor vehicle, and the amount of mileage set as excessive in the guide book.

G. In those instances when a federal or state regulated lending institution or financial institution determines that the motor vehicle has a loan value less than is indicated in the guide book, the applicant for motor vehicle registration may submit a statement from the lending institution or financial institution, signed by an officer of the institution, stating the loan value assigned to the vehicle by the institution. Such statement shall also contain a description of the vehicle including make, model, model year, and vehicle identification number. Upon receipt of such statement, the department may use the loan value contained in such statement for purposes of calculating the tax.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1324 (October 1997), amended LR 24:475 (March 1998).

§365. Valuation of Motor Vehicles Awarded Pursuant to a Judgment of a Court of Limited Jurisdiction

A. The following guidelines shall be used when determining the value of a motor vehicle, the ownership of which is acquired pursuant to a written judgment of a trial court of limited jurisdiction:

1. if the written judgment or the written reasons for judgment do not indicate that the court made a determination as to the value of the motor vehicle, the value shall be determined pursuant to §355;

2. if the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is not less than the value of the vehicle as determined in §355, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax;

3. if the written judgment or the written reasons for judgment contain a determination as to the value of the motor vehicle, and such value is less than the value of the vehicle as determined in §355, then the following shall apply:

a. if the judgment or reasons for judgment contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued at such amount for purposes of collecting the vehicle registration license tax;

b. if the judgment or reasons for judgment do not contain specific factual findings as to why that particular value was assigned to the motor vehicle, then the motor vehicle shall be valued pursuant to §355.B;

4. any judgment that is not reduced to writing shall not be used in the determination of the value of the motor vehicle for purposes of this Subchapter;

5. if the person submitting the application to register the motor vehicle refuses to pay the vehicle registration license tax as required in §365, the department shall deny or refuse the transaction.

B. No judgment shall be processed for purposes of titling or registering a motor vehicle unless the written judgment or the written reasons for judgment contain the following information:

1. the make, model, and model year of the motor vehicle;

2.a. the vehicle identification number of the motor vehicle, chassis number, or serial number as assigned by the manufacturer; or

b. the state police vehicle number assigned by a commissioned Louisiana state trooper after a physical inspection of the vehicle if the vehicle does not have a vehicle identification number assigned by the manufacturer;

3. the full name of each person or business entity in which the vehicle is to be titled and registered;

4. the full name of each person or business entity who sold, transferred, or otherwise assigned the vehicle to the persons or businesses required to be listed by §365.B.3;

5. the full price or other consideration given in exchange for the vehicle;

6. the date the sale, transfer or assignment occurred;

7. a statement as to whether any outstanding liens on the vehicle, which have been recorded with the Office of Motor Vehicles, have been released.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:463(A)(2).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 23:1325 (October 1997), amended LR 24:476 (March 1998).

Thomas H. Normile
Undersecretary

9803#067

RULE

Department of Public Safety and Corrections Office of State Police

Out-of-State Inspection Stations (LAC 55:III.808)

The Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., amends rules implementing the 1997 Regular Session amendments to R.S. 32:1301 and R.S. 32:1305 authorizing the establishment of motor vehicle inspection stations by any business owning more than 40 motor vehicles registered pursuant to the International Registration Plan in Louisiana and operating at least one vehicle repair and maintenance shop. The 1997 amendment authorizes the establishment of such inspection stations within or without the state of Louisiana.

Title 55
PUBLIC SAFETY
Part III. Motor Vehicles

Chapter 8. Vehicle Inspection
Subchapter D. Appointment as an Inspection Station
§808. Out-of-State Inspection Stations

A. All inspections of motor vehicles registered in Louisiana pursuant to the International Registration Plan, if conducted outside the state of Louisiana, shall be conducted in the same manner as those inspections conducted in Louisiana.

B. All inspection reports shall be received by the Safety Enforcement Section no later than the fifth day of the month following the month in which the motor vehicle was inspected at the out-of-state inspection station. The reports shall be mailed to the Office of State Police, Safety Enforcement Section, Box 66614, Baton Rouge, LA 70896 or hand-delivered at the Safety Enforcement Section headquarters at 265 South Foster Drive, Baton Rouge, LA 70806.

* * *

E. All inspection certificates shall be mailed directly to an address in Louisiana designated by the operator, and the operator shall be responsible for distributing the inspection certificates to each of the operator's inspection stations with a certificate of appointment. It shall be the responsibility of the fleet operator to maintain records reflecting the distribution, reallocation, and use of the inspection certificates.

F. It shall be the responsibility of the contact person located at the out-of-state inspection station, upon receipt of the inspection certificates from the operator's designated Louisiana address, to notify the operator's Louisiana office of the receipt of the inspection certificates. The contact person shall verify the audit numbers of the certificates received and include a statement of this verification in the notice required in §808.F. The notification required by §808.F shall be in writing and shall be kept at the operator's Louisiana office.

G. The inspection log books shall be sent to the operator's Louisiana office, and the operator's Louisiana office shall have the responsibility of forwarding the log books to the out-of-state inspection station.

* * *

I. Repealed.

* * *

P. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services may impose conditions, restrictions, or limitations on any permit without regard as to whether any violation has occurred.

* * *

U.1. The operator shall be responsible for the reimbursement of the actual costs incurred by the department in administering the out-of-state inspection program. The costs shall include the expenses incurred for travel, meals, lodging, and other related administrative expenses incurred in connection with the application for a certificate of appointment, the initial inspection in connection with commencement of operation of the out-of-state inspection station, and any subsequent inspection or investigation of the out-of-state inspection station to insure all requirements of state statutes, the rules regarding motor vehicle inspections, or

any order issued by or on behalf of the Safety Enforcement Section are met.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 23:1701 (December 1997), amended LR 24:477 (March 1998).

Thomas H. Normile
Undersecretary

9803#066

RULE

Department of Revenue
Tax Commission

Ad Valorem Taxation (LAC 61:V.Chapters 1-35)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, notice is hereby given that the Tax Commission adopted, amended, and/or repealed sections of the Louisiana Tax Commission Real/Personal Property Rules and Regulations for use in the 1998 (1999 Orleans Parish) tax year.

Title 61

REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. Assessments. Property subject to ad valorem (property) taxation shall be listed on the assessment rolls at its assessed valuation, which, except as provided in §101.C, shall be a percentage of its fair market value. The percentage of fair market value shall be uniform throughout the state upon the same class of property.

B. Classification

1. The classification of property subject to ad valorem taxation and the percentage of fair market value applicable to each classification for the purpose of determining assessed valuation are as follows:

Classifications	Percentages
a. land	10%
b. improvements for residential purposes	10%
c. electric cooperative properties, excluding land	15%
d. public service properties, excluding land	25%
e. other property (including personal property)	15%

2. The legislature may enact laws defining electric cooperative properties and public service properties. (See R.S. 47:1851).

C. Use Value. Bona fide agricultural, horticultural, marsh and timber lands, as defined by general law, shall be assessed for tax purposes at 10 percent of use value rather than fair market value. The legislature may provide by law similarly for buildings of historic architectural importance.

D. Valuation. Each assessor shall determine the fair market value of all property subject to taxation within his respective parish or district, except public service properties, which shall be valued at fair market value by the Tax Commission or its successor. Each assessor shall determine the use value of property which is to be so assessed under the provisions of §101.C. Fair market value and use value of property shall be determined in accordance with criteria which shall be established by law and which shall apply uniformly throughout the state.

E. Review. The correctness of assessments by the assessor shall be subject to review first by the parish governing authority, then by the Tax Commission or its successor, and finally by the courts, all in accordance with procedures established by law.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998).

§103. Exempt Property

A. In addition to the homestead exemption provided for in Section 20 of Article VII of the constitution, the following property and no other shall be exempt from the ad valorem tax:

1. public lands; other public property used for public purposes;

2. property of nonprofit organizations operated exclusively for religious, dedicated places of burial, charitable, health, welfare, fraternal, or educational purposes;

3. property of bona fide labor organizations and certain businesses and trade and professional organizations;

4. property of nonprofit organizations organized for fraternal and charitable purposes;

Note: See Louisiana Constitution of 1974, Article VII, Section 21.B, for specific conditions of authorization.

Note: None of the property listed in §103.A.2, 3, and 4 shall be exempt if owned, operated, leased or used for commercial purposes unrelated to the exempt purposes of the corporation or association.

* * *

6. stocks and bonds, except bank stocks, the tax on which shall be paid by the banking institution;

* * *

8. loans by life insurance companies to policyholders, if secured solely by their policies;

* * *

13. personal property used in the home or on loan in a public place;

14. irrevocably dedicated places of burial held by individuals for purposes of burial of themselves or members of their families;

15. agricultural products while owned by the producer, agricultural machinery and other implements used exclusively for agricultural purposes (including crop dusting aircraft),

animals on the farm, and property belonging to an agricultural fair association (also see R.S. 47:1707);

* * *

17. rights-of-way granted to the Department of Transportation and Development (DOTD);

* * *

20. ships and oceangoing tugs, towboats and barges engaged in international trade and domiciled in Louisiana ports. However, this exemption shall not apply to harbor, wharf, shed, and other port dues or to any vessel operated in the coastal trade of the states of the United States;

21. materials, boiler fuels, and energy sources used by public utilities to fuel the generation of electricity;

22. all incorporeal movables of any kind or nature whatsoever, except public service properties, bank stocks, and credit assessments on premiums written in Louisiana by insurance companies and loan and finance companies. (See Louisiana Civil Code of 1870, as amended, and R.S. 47:1709).

B. Also exempt are raw materials, goods, commodities, articles and personal property imported into this state from outside the states of the United States or, held in storage while in transit through this state which are moving in interstate commerce.

Note: See Louisiana Constitution, Article VII, Section 21.D; R.S. 47:1951.1; R.S. 47:1951.2; and R.S. 47:1951.3 for specific conditions of authorization.

Note: Property described in §103.B, whether or not entitled to exemption, shall be reported to the proper taxing authorities on the forms required by law.

C. Motor vehicles used on the public highways of this state, from state, parish and special ad valorem taxes. This exemption shall not extend to any general or special tax levied by a municipal governing authority, or by a district created by it, unless the governing authority thereof provides for the exemption by ordinance or resolution.

D. New manufacturing establishments and additions to existing manufacturing establishments to be granted tax exemptions by the Board of Commerce and Industry, with the approval of the governor, as authorized by Article VII, Section 21.F of the Louisiana Constitution of 1974.

E. Coal or lignite stockpiled in Louisiana for use in Louisiana for industrial or manufacturing purposes or for boiler fuel, gasification, feedstock, or process purposes.

F. Value of enhancements to certain structures located in downtown, historic, or economic development districts to be granted a limited exemption by the Board of Commerce and Industry, if approved by the governor and the local governing authority, as authorized by Article VII, Section 21.H of the Louisiana Constitution of 1974.

G. Goods held in inventory by distribution centers, to be granted tax exemptions by the parish economic development or governing authority, with the approval of each affected tax recipient body in the parish, as authorized by Article VII, Section 21.I of the Louisiana Constitution of 1974.

AUTHORITY NOTE: Promulgated in accordance with Louisiana Constitution of 1974, Article VII, Section 21.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 15:1097 (December 1989),

LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:478 (March 1998).

§123. Statutes Pertaining to Specific Personal Property
Listing and Assessing of Notes and Indebtedness

1. All credits, including open accounts, bills receivable, judgments and all promissory notes, not exempt, shall be assessed at the personal property ratio. Valuation shall be at an average of the capital employed in the business after deduction from accounts payable, bills payable and other liabilities of a similar character, not exempt. Liabilities due from branches or subsidiaries shall not be deducted (R.S. 47:1962).

2. Indebtedness and all evidence of indebtedness, shall be taxable only at the situs and domicile of the holder or owner thereof (R.S. 47:1952).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1952 and R.S. 47:1962.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

Chapter 3. Real and Personal Property

§309. Tax Commission Miscellaneous Forms

A. TC Form 8, Agreement to Suspend Subscription of Ad Valorem Tax Form, should be used when audit or other circumstances deem it appropriate.

B. TC Form 9, Insurance Companies Form, should be sent to all property and casualty insurance companies, both foreign and domestic, licensed to write insurance in Louisiana.

C. TC Form 33, Abstract of Assessments Form, shall be annually completed and furnished to the Tax Commission by each parish assessor on or before the filing of the parish assessment rolls for certification by the Tax Commission.

D. TC Forms CO1, CO2 and CO3, should be used to electronically process change order requests submitted by tax assessors' offices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 21:186 (February 1995), amended LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

Chapter 7. Watercraft

§701. Guidelines for Ascertaining Fair Market Value of Watercraft

* * *

B. Valuation

* * *

2. The same procedure shall be used as for other forms of machinery and equipment. That is, cost of the vessel will be brought up to current value through use of the appropriate index and depreciated based on the effective age of the vessel. The appropriate cost index, percent good factors and composite multipliers appear in Tables 703.A and 703.B.

3. Consideration of obsolescence when using the cost approach—economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence shall be given. If economic and/or

functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

4. Gulf of Mexico Watercraft Fleet. When determining the three approaches to value, the assessor may use a variable annual income approach, as compiled by a certified marine surveyor-appraisal company, at the request of the Louisiana Assessors' Association, for weighting and correlating current market conditions as a part of the fair market valuation process.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Sections 18 and 21, R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:922 (November 1984), LR 12:36 (January 1986), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	0.993	1	94	.93
1996	1.009	2	87	.88
1995	1.024	3	80	.82
1994	1.061	4	73	.77
1993	1.091	5	66	.72
1992	1.112	6	58	.64
1991	1.126	7	50	.56
1990	1.148	8	43	.49
1989	1.179	9	36	.42
1988	1.242	10	29	.36
1987	1.295	11	24	.31
1986	1.314	12	22	.29
1985	1.326	13	20	.27

B. Floating Equipment—Barges (Nonmotorized)

Floating Equipment—Barges (Nonmotorized)				
Cost Index (Average)		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	0.993	1	97	.96
1996	1.009	2	93	.94
1995	1.024	3	90	.92
1994	1.061	4	86	.91
1993	1.091	5	82	.89
1992	1.112	6	78	.87

1991	1.126	7	74	.83
1990	1.148	8	70	.80
1989	1.179	9	65	.77
1988	1.242	10	60	.75
1987	1.295	11	55	.71
1986	1.314	12	50	.66
1985	1.326	13	45	.60
1984	1.346	14	40	.54
1983	1.383	15	35	.48
1982	1.408	16	31	.44
1981	1.474	17	27	.40
1980	1.626	18	24	.39
1979	1.788	19	22	.39
1978	1.955	20	21	.41
1977	2.102	21	20	.42

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 and 10:925 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998).

Chapter 9. Oil and Gas Properties

§905. Reporting Procedures

B. Surface Equipment

6. Property Class Number 6—Field Improvements—docks, lease buildings, equipment sheds and buildings, warehouses, land and leasehold improvements, etc.—furnish year constructed and cost. Use composite multiplier from appropriate table on original cost, and extend fair market value for each.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 19:212 (February 1993), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998).

§907. Tables—Oil and Gas

A. The cost-new schedules below cover only that portion of the well subject to ad valorem taxation. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing,

economic or functional obsolescence shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Producing Depths	Cost—New by Depth, per Foot		15 Percent of Cost—New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	6.97	8.44	1.05	1.27
1,250-2,499 ft.	7.30	7.51	1.10	1.13
2,500-3,749 ft.	9.11	8.67	1.37	1.30
3,750-4,999 ft.	11.27	10.97	1.69	1.65
5,000-7,499 ft.	15.66	17.77	2.35	2.67
7,500-9,999 ft.	17.40	26.24	2.61	3.94
10,000-2,499 ft.	25.53	32.99	3.83	4.95
12,500-Deeper ft.	N/A	68.55	N/A	10.28

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Producing Depths	Cost—New by Depth, per Foot		15 Percent of Cost - New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 - 1,249 ft.	26.69	45.01	4.00	6.75
1,250 - 2,499 ft.	21.14	41.37	3.17	6.21
2,500 - 3,749 ft.	21.50	30.95	3.23	4.64
3,750 - 4,999 ft.	21.70	30.99	3.26	4.65
5,000 - 7,499 ft.	19.89	31.17	2.98	4.68
7,500 - 9,999 ft.	26.06	28.18	3.91	4.23
10,000 -12,499 ft.	31.75	37.91	4.76	5.69
12,500 -14,999 ft.	45.02	52.34	6.75	7.85
15,000 -17,499 ft.	62.46	68.56	9.37	10.28
17,500 -19,999 ft.	85.31	106.00	12.80	15.90
20,000 -Deeper ft.	73.18	122.67	10.98	18.40

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A-3 Oil, Gas and Associated Wells Region 3—Offshore State Waters*				
Producing Depths	Cost—New by Depth, per Foot		15 Percent of Cost—New by Depth, per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	N/A	105.86	N/A	15.88
1,250-2,499 ft.	168.29	252.07	25.24	37.81
2,500-3,749 ft.	66.16	199.04	9.92	29.86
3,750-4,999 ft.	135.59	103.89	20.34	15.58
5,000-7,499 ft.	91.01	100.22	13.65	15.03
7,500-9,999 ft.	90.68	93.73	13.60	14.06
10,000-12,499 ft.	85.73	92.62	12.86	13.89
12,500-14,999 ft.	86.51	108.32	12.98	16.25
15,000-17,499 ft.	86.51	98.51	12.98	14.78
17,500-Deeper ft.	109.95	134.08	16.49	20.11

* As classified by Louisiana Office of Conservation.

4. Instructions for Use of Tables 907.A-1, 907.A-2 and 907.A-3 and Procedure for Arriving at Assessed Value

a. Determine if well is located in Region 1 by reference to Table 907.B-1.

b. Multiply depth of well by appropriate 15 percent of Cost-New amount as indicated in Table 907.A-1, 907.A-2 or 907.A-3.

c. Multiply the appropriate percent good factor based on age of the well as found in Table 907.B-2.

d. Use Oil Cost—New to assess all active service wells for region where located.

e. See explanations in Section 901.E regarding the assessment of multiple completion wells.

f. For wells recompleted at a deeper depth, multiply depreciated cost-new by 1.5. For wells recompleted at a shallower depth, use the new perforation depth to determine fair market value.

B. Parishes Considered to be Located in Region I; Serial Number to Percent Good Conversion; Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence); Adjustments for Allowance of Economic Obsolescence

1. Parishes Considered to be Located in Region I

Table 907.B-1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

2. Serial Number to Percent Good Conversion Chart

Table 907.B-2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	25 Year Life Percent Good
1997	220034	Higher	96
1996	218653	220033	92
1995	217588	218652	88
1994	216475	217587	84
1993	215326	216474	80
1992	214190	215325	76
1991	212881	214189	72
1990	211174	212880	68
1989	209484	211173	64
1988	207633	209483	60
1987	205211	207632	56
1986	202933	205210	52
1985	197563	202932	48
1984	189942	197562	44
1983	184490	189941	40
1982	179370	184489	36
1981	173109	179369	32
1980	166724	173108	28
1979	Lower	166723	26*
VAR.	900000	Higher	50

* Reflects residual or floor rate.

Note: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

3. Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence)

Table 907.B-3 Producing Property (Well, Surface Equipment and Facilities) Total Assessment Limit (Economic Obsolescence)		
Production Sold BOPD/BCPD or MCFGPD	Oil/Condensate Assessment Limit	Gas Assessment Limit
0.5	520	60
1	1,040	120
1.5	1,560	190
2	2,080	250
2.5	2,600	310
3	3,120	370
3.5	3,640	430
4	4,160	490
4.5	4,680	560
5	5,200	620
6	6,240	740
7	7,280	860
8	8,320	990
9	9,360	1,110
10	10,400	1,230
15	15,600	1,850
20	20,810	2,460
25	26,010	3,080
30	31,210	3,700
35	36,410	4,310
40	41,610	4,930
45	46,810	5,540
50	52,010	6,160
60	62,420	7,390
70	72,820	8,620
80	83,220	9,860
90	93,620	11,090
100	104,030	12,320
125	130,030	15,400
150	156,040	18,480
175	182,040	21,560
200	208,050	24,640
250	260,060	30,800
300	312,080	36,960
350	364,090	43,120

400	416,100	49,280
450	468,110	55,440
500	520,130	61,590
600	---	73,910
700	---	86,230
800	---	98,550
900	---	110,870
1,000	---	123,190
2,000	---	246,380
3,000	---	369,560
4,000	---	492,750
5,000	---	615,940

4. Adjustments for Allowance of Economic Obsolescence

a. All "incapable" wells (25 bbl oil or 250 mcf gas, or less, per day), as defined in R.S. 47:633, as well as all active service wells (e.g., injection, salt water disposal, water source, etc.) shall be allowed a 40 percent reduction. Taxpayer shall provide the assessor with the proper Office of Conservation forms to document claim for such reduction.

b. All inactive (shut-in) wells shall be allowed a 60 percent reduction.

c. Deduct any additional obsolescence that has been appropriately documented by the taxpayer, as warranted, to reflect fair market value.

d. Economic obsolescence credits shall be based on representative daily production from the prior year(s) (See Table 907.B-3), as a means of establishing a maximum assessed value to be applied to wells, surface equipment and facilities, which can be applied to single well leases, multiple well leases or to fields. This table is based on a crude oil/condensate price of \$19 and a natural gas price of \$2.25.

e. All oil and gas property assessments may be based on an individual cost basis.

f. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

C. Surface Equipment

1. Listed below is the cost-new of major items used in the production, storage, transmission and sale of oil and gas. Any equipment not shown shall be assessed on an individual basis.

2. All surface equipment, including other property associated or used in connection with the oil and gas industry in the field of operation, must be rendered in accordance with guidelines established by the Tax Commission and in accordance with requirements set forth on LAT Form 12-Personal Property Tax Report - Oil and Gas Property.

3. Oil and gas personal property will be assessed in seven major categories, as follows:

- a. oil, gas and associated wells;
- b. oil and gas equipment (surface equipment);
- c. tanks (surface equipment);
- d. lines (oil and gas lease lines);

- e. inventories (material and supplies);
- f. field improvements (docks, buildings, etc.);
- g. other property (not included above).

4. The updated cost-new values, as compiled by a valuation consultant company, at the request of the Louisiana Assessors' Association, shall be the basis for assessing those items of surface equipment so provided. Otherwise, use the cost-new values listed below for assessing all other surface equipment.

5. The cost-new values listed below are to be adjusted to allow depreciation by use of the appropriate percent good listed in Table 907.B-2. The average age of the well/lease/field will determine the appropriate year to be used for this purpose.

6. Economic and/or functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, economic or functional obsolescence shall be given. If economic and/or functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

7. Sales, properly documented, should be considered by the assessor as fair market value, provided the sale meets all tests relative to it being a valid sale.

Table 907.C-1 Surface Equipment	
Property Description	\$ Cost New
Actuators - (See Metering Equipment)	
Automatic Control Equipment - (See Safety Systems)	
Automatic Tank Switch Unit - (See Metering Equipment)	
Barges - Concrete - (Assessed on an individual basis)	
Barges - Storage - (Assessed on an individual basis)	
Barges - Utility - (Assessed on an individual basis)	
Barges - Work - (Assessed on an individual basis)	
Communication Equipment - (See Telecommunications)	
Dampeners - (See Metering Equipment - "Recorders")	
Desorbers - (No metering equipment included):	
125Number	56,710
300Number	62,530
500Number	71,160
Destroilets - (See Metering Equipment - "Regulators")	
Desurgers - (See Metering Equipment - "Regulators")	
Desilters - (See Metering Equipment - "Regulators")	
Diatrollers - (See Metering Equipment - "Regulators")	
Docks, Platforms, Buildings - (Assessed on an individual basis)	
Dry Dehydrators (Driers) - (See Scrubbers)	
Engines - Unattached - (Only includes engine and skids): Per Horsepower	180
Evaporators - (Assessed on an individual basis)	
Expander Unit - (No metering equipment included): Per Unit	20,800

Flow Splitters - (No metering equipment included):	
48 in. diameter vessel	10,130
72 in. diameter vessel	13,420
96 in. diameter vessel	20,560
120 in. diameter vessel	29,220
Fire Control System - (Assessed on an individual basis)	
Furniture and Fixtures - (Assessed on an individual basis) (Field operations only, according to location.)	
Gas Compressors - Package Unit - (skids, scrubbers, cooling system, and power controls. No metering or regulating equipment.):	
Up to 1500 horsepower - Per hp	620
1501 and up - Per hp	400
Gas Coolers - (No metering equipment):	
5,000 MCF/D	16,000
10,000 MCF/D	18,000
20,000 MCF/D	56,000
50,000 MCF/D	127,000
100,000 MCF/D	208,000
Generators - Package Unit only - (No special installation) - Per kW	440
Glycol Dehydration - Package Unit - (including pressure gauge, relief valve and regulator. No other metering equipment.):	
Up to 4.0 MMCF/D	11,220
4.1 to 5.0 MMCF/D	12,510
5.1 to 10.0 MMCF/D	21,040
10.1 to 15.0 MMCF/D	33,930
15.1 to 20.0 MMCF/D	49,780
20.1 to 25.0 MMCF/D	52,180
25.1 to 30.0 MMCF/D	72,980
30.1 to 50.0 MMCF/D	118,580
50.1 to 75.0 MMCF/D	158,360
75.1 and Up MMCF/D	200,000
Heaters - (includes unit, safety valves, regulators and automatic shut-down. No metering equipment.):	
Steam Bath - Direct Heater:	
24 in. diameter vessel - 250,000 Btu/hr rate	3,910
30 in. diameter vessel - 500,000 Btu/hr rate	4,910
36 in. diameter vessel - 750,000 Btu/hr rate	5,910
48 in. diameter vessel - 1,000,000 Btu/hr rate	8,760
60 in. diameter vessel - 1,500,000 Btu/hr rate	10,800
Water Bath - Indirect Heater:	
24 in. diameter vessel - 250,000 Btu/hr rate	4,890
30 in. diameter vessel - 500,000 Btu/hr rate	5,890
36 in. diameter vessel - 750,000 Btu/hr rate	8,310
48 in. diameter vessel - 1,000,000 Btu/hr rate	10,730
60 in. diameter vessel - 1,500,000 Btu/hr rate	13,360
Steam - (Steam Generators):	
24 in. diameter vessel - 250,000 Btu/hr rate	5,070
30 in. diameter vessel - 450,000 Btu/hr rate	6,360
36 in. diameter vessel - 500 to 750,000 Btu/hr rate	9,510
48 in. diameter vessel - 1 to 2,000,000 Btu/hr rate	10,930
60 in. diameter vessel - 2 to 3,000,000 Btu/hr rate	12,360
72 in. diameter vessel - 3 to 6,000,000 Btu/hr rate	19,510
96 in. diameter vessel - 6 to 8,000,000 Btu/hr rate	23,440
Heat Exchange Units-Skid Mounted - (See Production Units)	

Heater Treaters - (Necessary controls, gauges, valves and piping. No metering equipment included.):	
Heater - Treaters - (Non-metering):	
4 x 20 ft.	8,510
4 x 27 ft.	10,960
6 x 20 ft.	11,470
6 x 27 ft.	14,420
8 x 20 ft.	18,360
8 x 27 ft.	21,510
10 x 20 ft.	24,290
10 x 27 ft.	28,560
Heater - Treaters - (Metering) - (Also includes metering section with dump counters.):	
3 x 15 ft.	8,400
4 x 22 ft.	14,000
6 x 22 ft.	16,400
8 x 22 ft.	23,600
10 x 22 ft.	30,000
L.A.C.T. (Lease Automatic Custody Transfer) - See Metering Equipment)	
L.T.X. (Low Temperature Extraction) - (includes safety valves, temperature controllers, chokes, regulators, metering equipment, etc. - complete unit.):	
Range I - Up to 5.0 MMCF/D	73,180
Range II - 5.1 to 10.0 MMCF/D	95,910
Range III - 10.1 to 15.0 MMCF/D	123,240
Range IV - 15.1 and Up MMCF/D	158,200
Liqua Meter Units - (See Metering Equipment)	
Manifolds - (See Metering Equipment)	
Material and Supplies - Inventories - (Assessed on an individual basis)	
Meter Calibrating vessels - (See Metering Equipment)	
Meter Prover Tanks - (See Metering Equipment)	
Meter Runs - (See Metering Equipment)	
Meter Control Stations - (not considered Communication Equipment) - (Assessed on an individual basis)	

Metering Equipment	
Actuators - hydraulic, pneumatic and electric valves	3,310
Controllers - time cycle valve - valve controlling device (also known as Intermittent)	
Fluid Meters:	1,040
1 Level Control	
24 in. diameter vessel - 1/2 bbl. dump	
30 in. diameter vessel - 1 bbl. dump	2,530
36 in. diameter vessel - 2 bbl. dump	3,240
2 Level Control	4,490
20 in. diameter vessel - 1/2 bbl. dump	
24 in. diameter vessel - 1/2 bbl. dump	2,360
30 in. diameter vessel - 1 bbl. dump	2,840
36 in. diameter vessel - 2 bbl. dump	3,560
L.A.C.T. and A.T.S. Units:	4,800
30 lb. discharge	
60 lb. discharge	15,800
Manifolds - Manual Operated:	18,000
High Pressure	
per well	
per valve	12,400
Low Pressure	4,200
per well	
per valve	6,000
Manifolds - Automatic Operated:	2,000
High Pressure	
per well	
per valve	22,400
Low Pressure	7,400
per well	
per valve	16,000
Note: Automatic Operated System includes gas hydraulic and pneumatic valve actuators, (or motorized valves), block valves, flow monitors - in addition to normal equipment found on manual operated system. NO METERING EQUIPMENT INCLUDED.	5,400
Meter Runs - piping, valves and supports - no meters:	
2 in. piping and valve	
3 in. piping and valve	
4 in. piping and valve	3,400
6 in. piping and valve	3,800
8 in. piping and valve	4,600
10 in. piping and valve	6,400
12 in. piping and valve	9,600
14 in. piping and valve	12,800
16 in. piping and valve	16,000
18 in. piping and valve	21,780
20 in. piping and valve	28,440
22 in. piping and valve	35,200
24 in. piping and valve	45,780
Metering Vessels (Accumulators):	57,690
1 bbl. calibration plate (20 x 9)	70,600
5 bbl. calibration plate (24 x 10)	
7.5 bbl. calibration plate (30 x 10)	1,960
10 bbl. calibration plate (36 x 10)	2,130
Recorders (Meters) - Includes both static element and tube drive pulsation dampener - also one and two pen operations.	2,960
per meter	3,690
Solar Panel (also see Telecommunications)	
per unit (10 ft. x 10 ft.)	1,380
	200

Pipe Lines - Lease Lines	
Steel	
2 in. nominal size - per mile	14,690
2½ in. nominal size - per mile	24,710
3 and 3½ in. nominal size - per mile	28,470
4, 4½ and 5 in. nominal size - per mile	33,730
6 in. nominal size - per mile	47,730
Plastic - PVC	
2 in. nominal size - per mile	2,200
2½ in. nominal size - per mile	3,600
3 in. nominal size - per mile	4,000
4 in. nominal size - per mile	6,000
6 in. nominal size - per mile	11,800
Plastic - Fiberglass	
2 in. nominal size - per mile	12,910
3 in. nominal size - per mile	20,380
4 in. nominal size - per mile	29,130
6 in. nominal size - per mile	76,400
Note: Allow 85 percent obsolescence credit for lines that are inactive, idle, open on both ends and dormant, which are being carried on corporate records solely for the purpose of retaining right of ways on the land and/or due to excessive capital outlay to refurbish or remove the lines.	
Pipe Stock - (Assessed on an individual basis)	
Pipe Stock - Exempt - Under Louisiana Constitution, Article X, Section 4 (19-C)	
Production Units:	
Class I - per unit - separator and 1 heater	12,820
Class II - per unit - separator and 1 heater	15,220
Production Process Units - These units are by specific design and not in the same category as gas compressors, liquid and gas production units or pump-motor units. (Assessed on an individual basis.)	
Prover Tanks:	
5 bbl. (4 x 8)	4,600
10 bbl. (5 x 8)	5,800
15 bbl. (6 x 9)	7,510
20 bbl. (6 x 10)	9,130
25 bbl. (8 x 9)	10,510
Pumps - in Line - per horsepower rating of motor	160
Pump-Motor Unit - Pump and Motor only (Per hp)	
Class I - (water flood, s/w disposal, p/l, etc.)	200
Up to 300 hp - rated on per hp of motor	240
Class II - (high pressure injection, etc.)	
301 and up hp - rated on per hp of motor	
Pumping Units - Conventional and Beam Balance Units - (Unit value includes motor) - assessed according to well depth on which unit is operating.	
0 - 1,250 ft. well depth	3,670
1,251 - 2,500 ft. well depth	6,200
2,501 - 3,750 ft. well depth	8,710
3,751 - 5,000 ft. well depth	9,800
5,001 - 7,500 ft. well depth	13,110
7,501 - 10,000 ft. well depth	14,400
10,001 - 12,500 ft. well depth	16,910
12,501 - 15,000 ft. well depth	23,800
15,001 - 17,500 ft. well depth	31,000
17,501 - 20,000 ft. well depth	39,800
20,001 - deeper ft. well depth	49,510
Note: For "Air Balance" and "Heavy Duty" units, multiply the above values by 1.30.	

Regenerators (Accumulator) - (See Metering Equipment)	
Regulators: per unit	1,400
Safety Systems	
Onshore and Marsh Area	
Basic Case:	
well only	2,800
well and production equipment	3,200
with surface op. ssv, add	4,800
Offshore 0 - 3 Miles	
Wellhead safety system (excludes wellhead actuators)	
per well	8,000
production train	20,000
glycol dehydration system	12,000
P/L pumps and LACT	28,000
Compressors	17,600
Wellhead Actuators (does not include price of the valve)	
5,000 psi	2,000
10,000 psi and over	3,000
Note: For installation costs - add 25 percent	
Sampler - (See Metering Equipment - "Fluid Meters")	
Scrubbers - Two Classes	
Class I - Manufactured for use with other major equipment and, at times, included with such equipment as part of a package unit.	
8 in. diameter vessel	1,690
10 in. diameter vessel	2,440
12 in. diameter vessel	2,760
Class II - Small "in-line" scrubber used in flow system usually direct from gas well. Much of this type is "shop-made" and not considered as major scrubbing equipment.	
8 in. diameter vessel	800
12 in. diameter vessel	1,040
Note: NO METERING OR REGULATING EQUIPMENT INCLUDED IN THE ABOVE.	
Separators - (No metering equipment included)	
125 psi vessel	7,330
230 psi vessel	9,070
500 psi vessel	13,330
600 psi vessel	14,000
1,000 psi vessel	16,000
1,200 psi vessel	18,670
1,440 psi vessel	21,330
1,500 psi vessel	22,670
2,000 psi vessel	28,670
3,000 psi vessel	33,330
4,000 psi vessel	40,670
5,000 psi vessel	48,000
6,000 psi vessel	57,330
Skimmer Tanks - (See Flow Tanks in Tanks Section)	
Stabilizers - per unit	3,110
Sump/Dump Tanks - (See Metering Equipment - "Fluid Tanks")	

	Per Barrel*
Tanks - No metering equipment	
Flow Tanks (receiver or gunbarrel)	
50 to 548 bbl. range	
average tank size - 250 bbl.	21.60
Stock Tanks (lease tanks)	
100 to 750 bbl. range	
average tank size - 300 bbl.	15.80
Storage Tanks (Closed Top)	
1,000 barrel	11.50
1,500 barrel	10.20
2,000 barrel	9.80
2,001 - 5,000 barrel	8.20
5,001 - 10,000 barrel	7.20
10,001 - 15,000 barrel	12.00
15,001 - 55,000 barrel	10.80
55,001 - 150,000 barrel	9.60
Internal Floating Roof	
10,000 barrel	12.60
20,000 barrel	11.00
30,000 barrel	10.40
50,000 barrel	9.70
55,000 barrel	9.60
80,000 barrel	7.80
100,000 barrel	7.60
Pontoon Floating Roof	
10,000 barrel	12.10
20,000 barrel	11.60
40,000 barrel	10.90
50,000 barrel	10.20
80,000 barrel	8.20
100,000 barrel	8.00
150,000 barrel	7.00
* (I.E.: tank size bbl. x Number of bbls. x cost-new factor.)	
Telecommunications Equipment	
Microwave System	
Telephone and data transmission	40,000
Radio telephone	3,000
Supervisory controls	
remote terminal unit, well	6,600
master station	15,000
towers (installed):	
heavy duty, guyed, per foot	160
light duty, guyed	20
heavy duty, self supporting	510
light duty, self supporting	110
Equipment building, per sq. ft.	160
Solar panels, per unit (10 ft. x 10 ft.)	200
Utility Compressors - per horsepower - rated on motor	400
Vapor Recovery Unit - No Metering Equipment	
0 - 30 psi - 80 MCF/D	7,240
0 - 30 psi - 160 MCF/D	14,510
0 - 60 psi - 80 MCF/D	15,000
Water Flood Equipment - (See "Pump-Motor, Class I")	
Waterknockouts - Includes unit, backpressure valve and regulator, but, no metering equipment.	
24 in. diameter vessel	2,890
30 in. diameter vessel	3,600
36 in. diameter vessel	4,310
48 in. diameter vessel	5,910
72 in. diameter vessel	8,530
96 in. diameter vessel	12,800
120 in. diameter vessel	19,200

Table 907.C-2 Service Stations Marketing Personal Property *Alternative Procedure	
Property Description	\$ Cost New
Air and Water Units:	
Above ground	360
Below ground	220
Air Compressors:	
¾ to 1 hp	670
½ to 5 hp	1,420
Car Wash Equipment:	
In Bay (roll over brushes)	22,000
In Bay (pull through)	38,730
Tunnel (40 to 50 ft.)	73,710
Tunnel (60 to 75 ft.)	80,580
Drive on Lifts:	
Single Post	2,240
Dual Post	3,760
Lights:	
Light Poles (each)	110
Lights - per pole unit	240
Pumps:	
Non-electronic - self contained and/or remote controlled computer	
Single	1,380
Dual	2,380
Computerized - non-self service, post pay, pre/post pay, self contained and/or remote controlled dispensers	
Single	1,670
Dual	2,930
Read-out Equipment (at operator of self service)	
Per Hose Outlet	490
Rotators - (Additional Equipment)	
Small and medium signs	640
Large signs	1,110
Signs:	
Station Signs	
6 ft. lighted - installed on 12 ft. pole	1,000
10 ft. lighted - installed on 16 ft. pole	3,240
Attachment Signs (for station signs)	
Lighted "self-serve" (4 x 11 ft.)	760
Lighted "pricing" (5 x 9 ft.)	1,270
High Rise Signs - 16 ft. lighted - installed on:	
1 pole	6,000
2 poles	7,490
3 poles	8,760
Attachment Signs (for high rise signs)	
Lighted "self-serve" (5 x 17 ft.)	3,000
Lighted "pricing" (5 x 9 ft.)	1,270
Submerged Pumps - (used with remote control equipment, according to number used - per unit)	690
Tanks - (average for all tank sizes)	
Underground - per gallon	0.64

*This alternative assessment procedure should be used only when acquisition cost and age are unknown or unavailable. Otherwise, see general business section (Chapter 25) for normal assessment procedure.

Note: The above represents the cost-new value of modern stations and self-service marketing equipment. Other costs associated with such equipment are included in improvements. Old style stations and equipment should be assessed on an individual basis, at the discretion of the tax assessor, when evidence is furnished to substantiate such action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998).

Chapter 11. Drilling Rigs and Related Equipment
§1101. Guidelines for Ascertaining the Fair Market Value of Drilling Rigs and Related Equipment

* * *

C. Valuation. The valuation standard for drilling rigs and related equipment is fair market value. Fair market value for drilling rigs and related equipment, when using the cost approach, is to be achieved through use of the information provided the assessor on LAT Form 13. The assessor shall take the depth of operating capability or engine rated horsepower and apply the appropriate assessment of the drilling rig as presented in Table 1103.A, 1103.B, 1103.C or 1103.D, as appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998).

§1103. Drilling Rigs and Related Equipment Tables

A.1. Land Rigs

Table 1103.A Land Rigs		
Depth 0 to 7,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
3,000	\$ 101,730	\$ 15,300
4,000	133,700	20,100
5,000	172,000	25,800
6,000	210,400	31,600
7,000	237,300	35,600
Depth 8,000 to 10,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
8,000	\$ 260,400	\$ 39,100
9,000	283,600	42,500
10,000	307,100	46,100
Depth 11,000 to 15,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
11,000	\$ 330,610	\$ 49,600

12,000	364,020	54,600
13,000	400,730	60,100
14,000	434,340	65,100
15,000	458,650	68,800
Depth 16,000 to 20,000 ft.		
Depth (ft.)	Fair Market Value	Assessment
16,000	\$ 482,960	\$ 72,400
17,000	505,770	75,900
18,000	528,080	79,200
19,000	555,490	83,300
20,000	598,200	89,700
Depth 21,000 + ft.		
Depth (ft.)	Fair Market Value	Assessment
21,000	\$ 640,910	\$ 96,100
25,000 +	811,750	121,800

2. Barges (Hull)

a. Assess barges (hull) at 25 percent of the assessment for the rig value bracket, and add this to the proper rig assessment to arrive at total for barge and its drilling rig.

b. Living quarters are to be assessed on an individual basis.

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 ft.	\$ 10,330,000	\$ 1,549,950
	200-299 ft.	18,500,000	2,775,000
		35,300,000	5,295,000
IS	0-199 ft.	4,500,000	675,000
	200-299 ft.	8,000,000	1,200,000
	300- Up ft.	13,510,000	2,026,500
MC	0-100 ft.	1,975,000	296,250
	101-199 ft.	1,625,000	243,750
	200-250 ft.	7,600,000	1,140,000
MS	0-250 ft.	700,000	105,000
	250- Up ft.	7,420,000	1,113,000

IC - Independent Leg Cantilever

IS - Independent Leg Slot

MC - Mat Cantilever

MS - Mat Slot

C. Submersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
0- 800 ft.	44,920,000	6,738,000
801-1,800 ft.	65,000,000	9,750,000
1,801-2,500 ft.	120,000,000	18,000,000
2,501- Up ft.	150,000,000	22,500,000

D. Well Service Rigs—Land Only (Good Condition)

Table 1103.C Well Service Rigs—Land Only (Good Condition)		
Engine Rated hp	Fair Market Value	Assessment
220	\$ 80,000	\$ 12,000
300	90,000	13,500
400	115,000	17,250
500 +	150,000	22,500

Note: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

E. Consideration of Obsolescence

1. Functional obsolescence is a loss in value of personal property above and beyond physical deterioration. Upon a showing of evidence of such loss, substantiated by the taxpayer in writing, functional obsolescence shall be given.

2. If functional obsolescence is not given when warranted, an appreciated value greater than fair market value may result.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998).

Chapter 13. Pipelines

§1301. Guidelines for Ascertaining the Fair Market Value of Pipelines

A. General

2. Both classes of pipelines are to be assessed in the taxing district where located. A copy of LAT Form 14 is to be provided the pipeline owner. Surface equipment associated with pipelines (compressor stations, booster stations, etc.) are to be reported separately on LAT Form 5. Surface pipeline related equipment is to be valued individually at cost factored to current value less physical deterioration. Pipelines are to be valued for assessment purposes at cost less physical

deterioration. A cost schedule is provided for the various sizes of "other pipelines" (See Tables 1307.A and B). Represented in these schedules is the cost-new, as of the appropriate assessment date, for the different size pipelines. This cost is to be reduced for the appropriate allowance for physical deterioration (See Table 1307.C), based on the age of the pipeline, by multiplying replacement cost by the appropriate percent good factor. Where significant functional and economic obsolescence has been proven to the assessor, appropriate allowance should be made on an individual basis.

B. Lease lines. The category "lease lines" represents pipelines which are generally in the 2 inches to 6 inches size range. These pipelines are considered to be subject to changes in routes due to equipment and well requirements; and, generally are not of the same quality as "other pipelines." These lines are generally associated with wells and surface equipment on the oil and gas production field. Fiberglass and plastic lines which are now being used in some areas are also covered in this category. Refer to Oil and Gas Properties Section, Surface Equipment (See Table 907.C-1) for "lease lines".

C. Other Pipelines. The category "other pipelines" is generally represented by the larger gathering and transmission pipelines, but includes all lines, other than plastic, 2 inches and larger in diameter. This class of pipelines is normally of better quality, requiring more rigid controls, and not subject to changes in routes as are "lease lines". Tables 1307.A and 1307.B describe the cost-new per mile for various size pipelines in the "other pipelines" category.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998).

§1305. Reporting Procedures

C. Use schedules adopted by the Tax Commission and report cost per mile, calculate and extend "total reproduction cost".

E. Refer to current cost tables (1307.A and B) and depreciation guidelines (Table 1307.C) adopted by the Tax Commission. Yearly depreciation will be allowed, according to actual age, on an economic life of 25 years, however, as long as pipeline is in place and subject to operation, the remaining percent good shall not be lower than the percentage for an actual age of 19 years.

G. Economic obsolescence should be recognized with a service factor calculated using the following formula:

$$Service\ Factor = \left(\frac{Actual\ Throughput}{Rated\ Capacity} \right)^{0.6}$$

This service factor represents remaining utility for the pipeline and should be applied in addition to normal depreciation.

H. Pipeline sales, properly documented, should be

considered by the assessor as the fair market value, provided the sale meets all tests relative to it being a valid sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:940 (November 1984), LR 17:1213 (December 1991), amended by the Department of Revenue, Tax Commission, LR 24:488 (March 1998).

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines Onshore

Table 1307.A Current Costs for Other Pipelines Onshore	
Diameter (inches)	Cost Per Mile
2	\$ 76,050
4	83,070
6	94,760
8	111,130
10	132,170
12	157,890
14	188,280
16	223,340
18	263,080
20	307,500
22	356,590
24	410,350
26	468,790
28	531,900
30	599,690
32	672,150
34	749,290
36	831,100
38	917,590
40	1,008,750
42	1,104,580
44	1,205,090
46	1,310,280
48	1,420,140

Note: excludes river and canal crossings.

B. Current Costs for Other Pipelines Offshore

Table 1307.B Current Costs for Other Pipelines Offshore	
Diameter (inches)	Cost Per Mile
6	\$ 391,520
8	398,920
10	408,420

12	420,030
14	433,760
16	449,590
18	467,540
20	487,590
22	509,760
24	534,040
26	560,420
28	588,920
30	619,530
32	652,240
34	687,070
36	724,010
38	763,050
40	804,210
42	847,480
44	892,860
46	940,350
48	989,950

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Effective Age	Percent Good
1	96
2	92
3	88
4	84
5	80
6	76
7	72
8	68
9	64
10	60
11	56
12	52
13	48
14	44
15	40
16	36
17	32
18	28
19 and older	26*

* Reflects residual or floor rate.
 Note: See §1305.G for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 and 10:942 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

Aircraft

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (10 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
1997	0.993	1	92	.91
1996	1.009	2	84	.85
1995	1.024	3	76	.78
1994	1.061	4	67	.71
1993	1.091	5	58	.63
1992	1.112	6	49	.54
1991	1.126	7	39	.44
1990	1.148	8	30	.34
1989	1.179	9	24	.28
1988	1.242	10	21	.26
1987	1.295	11	20	.26

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

Chapter 17. Inventories

§1705. Guidelines Pertaining to Specific Merchandise Inventories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), amended LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 21:186 (February 1995),

repealed by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

§1707. Forms—Inventories

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1961 and R.S. 47:2322.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 13:764 (December 1987), amended LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 21:186 (February 1995), repealed by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

B. Cost Indices

Table 2503.B Cost Indices		
Year	National Average 1926 = 100	January 1, 1997 = 100*
1997	1052.7	0.993
1996	1036.0	1.009
1995	1020.4	1.024
1994	985.0	1.061
1993	958.0	1.091
1992	939.8	1.112
1991	928.5	1.126
1990	910.2	1.148
1989	886.5	1.179
1988	841.4	1.242
1987	806.9	1.295
1986	795.4	1.314
1985	787.9	1.326
1984	776.4	1.346
1983	755.8	1.383
1982	742.4	1.408
1981	709.2	1.474
1980	642.8	1.626
1979	584.4	1.788
1978	534.7	1.955
1977	497.1	2.102
1976	472.1	2.214
1975	444.3	2.352
1974	398.4	2.623
1973	344.1	3.037
1972	332.1	3.147

*Reappraisal Date: January 1, 1997 - 1045.1 (Base Year)

D. Composite Multipliers

Table 2503.D Composite Multipliers 1998 (1999 Orleans Parish)								
Age	3 Yrs.	5 Yrs.	8 Yrs.	10 Yrs.	12 Yrs.	15 Yrs.	20 Yrs.	25 Yrs.
1	.70	.84	.89	.91	.93	.94	.96	.97
2	.49	.70	.80	.85	.88	.91	.94	.96
3	.35	.53	.69	.78	.82	.87	.92	.95
4	.21	.36	.57	.71	.77	.84	.91	.95
5		.25	.47	.63	.72	.80	.89	.95
6		.22	.37	.54	.64	.76	.87	.93
7			.29	.44	.56	.70	.83	.91
8			.25	.34	.49	.63	.80	.90
9			.24	.28	.42	.58	.77	.88
10				.26	.36	.53	.75	.88
11				.26	.31	.48	.71	.88
12					.29	.41	.66	.84
13					.27	.34	.60	.80
14						.31	.54	.75
15						.29	.48	.72
16						.28	.44	.68
17							.40	.65
18							.39	.63
19							.39	.61
20							.41	.59
21							.42	.55
22								.51
23								.49
24								.52
25								.61
26								.63

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 and 10:945 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998).

Chapter 27. Guidelines For Application, Classification and Assessment of Land Eligible to be Assessed at Use Value

§2717. Tables—Use Value

* * *

C. Average Assessed Values Per Acre of Marshland, by Class

Table 2717.C-1 Average Assessed Value Per Acre of Marshland, by Class West Zone	
Class	Assessed Value per Acre
Fresh Water Marsh	\$7.00
Brackish Water Marsh	\$6.00
Salt Water Marsh	\$5.00

Table 2717.C-2 Parishes Considered To Be Located In the West Zone			
Acadia	Iberia	St. Landry	Vermilion
Calcasieu	Jefferson Davis	St. Martin	
Cameron	Lafayette	St. Mary	

Table 2717.C-3 Average Assessed Value Per Acre of Marshland, By Class East Zone	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$ 5.00
Brackish Water Marsh	\$ 4.00
Salt Water Marsh	\$ 3.00

Table 2717.C-4 Parishes Considered To Be Located In the East Zone			
Ascension	Lafourche	St. Charles	Terrebonne
Assumption	Livingston	St. James	West Baton Rouge
East Baton Rouge	Orleans	St. John	
Iberville	Plaquemines	St. Tammany	
Jefferson	St. Bernard	Tangipahoa	

Note: Only the parishes listed above should have lands classified as marshland. All other parishes should classify such land as All Other Acreage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:491 (March 1998).

**Chapter 31. Public Exposure of Assessments; Appeals
§3101. Public Exposure of Assessments, Appeals to the
Board of Review and Board of Review Hearings**

* * *

**Form 3101
Exhibit A
Appeal to Board of Review by Taxpayer
for Real and Personal Property**

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Ward: _____ Assessment/Tax Bill Number: _____
Address or Legal Description of Property Being Appealed. Also, please identify
building by place of business for convenience of appraisal.

I hereby request the review of the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my reports (if personal property) as required by law, and I have reviewed my assessment with my assessor.

The assessor has determined Fair Market Value of this property at:
Land \$ _____ *Improvement \$ _____ Total \$ _____
I am requesting that the Fair Market Value of this property be fixed at:
Land \$ _____ *Improvement \$ _____ Total \$ _____
The assessor has determined assessment of this property at:
Land \$ _____ *Improvement \$ _____ Total \$ _____
I am requesting that the assessment of this property be fixed at:
Land \$ _____ *Improvement \$ _____ Total \$ _____

*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I understand that I must provide the Board of Review with evidence of fair market value to support my claim.

I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are currently based, was:
Land \$ _____ *Improvement \$ _____ Total \$ _____

Please notify me of the date, place and time of my appeal at the address shown below.

Appellant (Taxpayer/Taxpayer's Rep./Assessor)

Address: _____

Telephone No. _____

Date of Appeal: _____

Your request for review will be heard on the _____ day of _____ 19____
at _____ M. at _____
Company, Street Address, including Room Number

NOTE: If appellant disputes Board of Review's decision, appellant may appeal to La. Tax Commission by completing and submitting Appeal Form 3103.A to LTC within 10 days of postal date of BoR's written determination. For further information, call LTC at (504) 925-7830.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 13:188 (March 1987), LR 13:764 (December 1987), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998).

§3103. Appeals to the Louisiana Tax Commission

* * *

La. Tax Commission
P. O. Box 66788
Baton Rouge, LA 70896
(504)925-7830 (B.R.)
(504)568-5259(N.O.)

**Form 3103.A
Exhibit A
Appeal to Louisiana Tax Commission
By Taxpayer or Assessor
for Real and Personal Property**

Name: _____ Parish/District: _____
Taxpayer
Address: _____ City, State, Zip: _____
Board of Review
Ward: _____ Asses./Tax Bill Number: _____ Appeal Number: _____
(Attach copy of complete appeal submitted to the Board of Review)
Address or Legal Description of Property Being Appealed. Also, please identify
building by place of business for convenience of appraisal.

I hereby appeal the decision of the Board of Review on the assessment of the above described property pursuant to L.R.S. 47:1992. I timely filed my appeal as required by law.

The original Fair Market Value by the assessor was:
Land \$ _____ *Improvement \$ _____ Total \$ _____
The proposed Fair Market Value by the taxpayer was:
Land \$ _____ *Improvement \$ _____ Total \$ _____
The revised Fair Market Value by the Board of Review was:
Land \$ _____ *Improvement \$ _____ Total \$ _____
The original assessment by the assessor was:
Land \$ _____ *Improvement \$ _____ Total \$ _____
The proposed assessment by the taxpayer was:
Land \$ _____ *Improvement \$ _____ Total \$ _____
The revised assessment by the Board of Review was:
Land \$ _____ *Improvement \$ _____ Total \$ _____

*NOTE: Report personal property on Improvement line above.

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time. I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are based, was:

Land \$ _____ *Improvement \$ _____ Total \$ _____

I will call the following witness(es): _____

Presentation of my case will take approximately _____ minutes. Please notify me of the date, place and time of my appeal at the address shown below.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone Number: _____

_____ Date of Appeal

**Form 3103.B
Exhibit B**

**Appointment of Taxpayer Agent
in
Louisiana Tax Commission
Ad Valorem Tax Appeal**

LTC Docket Number _____

La. Tax Commission
P.O. Box 66788
Baton Rouge, LA 70896
(504)925-7830 (B.R.)
(504)568-5259(N.O.)

I. Appellant Taxpayer:

Name _____
Address _____

Telephone Number _____

II. Authorized Taxpayer Agent:

Name of Agent _____
Address _____

Telephone Number _____

III. Scope of Authorized Appointment:

A. Duration:
_____ Tax Year ____ (Days, Months, etc.) _____ Until Revoked.

B. Agent Authority:

- 1. _____ General powers granted to represent taxpayer in all matters.
- 2. _____ Specified powers as listed.
 - (a.) _____ File notices of protest and present protests before the Louisiana Tax Commission.
 - (b.) _____ Receive confidential information filed by taxpayer.
 - (c.) _____ Negotiate and resolve disputed tax matters without further authorization.
 - (d.) _____ Represent taxpayer during appeal process.

C. Properties Authorized to Represent:

- 1. _____ All property.
- 2. _____ The following property only (give assessment number, and municipal address or legal description).

(Continue on attached pages as needed.)

IV. The undersigned owner or legally authorized corporate officer does hereby appoint the above named taxpayer agent as provided herein.

By: _____
Signature Date

Name _____
Address _____

Title or Position _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998).

§3105. Practice and Procedure for Public Service Properties Hearings

A. The Tax Commission or its designated representative, as provided by law (that is a hearing officer), shall conduct hearings to consider the written protest of an appellant taxpayer, who shall be required to use Form 3105.A. The appeal shall be filed within 30 days of the Tax Commission's

dated Certificate of Value to the taxpayer. The taxpayer shall also submit an "Exhibit B, Appointment of Taxpayer Agent," Form 3103.B, for any attorney or other representative of the taxpayer, who is not a full time employee of the taxpayer.

* * *

**Form 3105.A
Exhibit A
Appeal to Louisiana Tax Commission
by Taxpayer or Assessor
for Public Service Property**

Name: _____ Parish/District: _____
Taxpayer

Address: _____ City, State, Zip: _____
Address or Legal Description of Property Being Appealed _____

I hereby appeal the decision of the Board of Review on the assessment of the above described property.

The Fair Market Value of the Louisiana Tax Commission is:

Land \$ _____ Improvement \$ _____ Total \$ _____

I am requesting that the Fair Market Value be fixed at:

Land \$ _____ Improvement \$ _____ Total \$ _____

The assessment of the Louisiana Tax Commission is:

Land \$ _____ Improvement \$ _____ Total \$ _____

I am requesting that the assessment be fixed at:

Land \$ _____ Improvement \$ _____ Total \$ _____

I understand that property is assessed at a percentage of fair market value which means the price for the property which would be agreed upon between a willing and informed buyer and a willing and informed seller under usual and ordinary circumstances, the highest price the property would bring on the open market if exposed for sale for a reasonable time.

I feel that the Fair Market Value of this property as of January 1, 1995, the official reappraisal date on which assessments are currently based, was:

Land \$ _____ *Improvement \$ _____ Total \$ _____

I will call the following witness(es): _____

Presentation of my case will take approximately ____ minutes. Please notify me of the date, place and time of my appeal at the address shown below.

Appellant(Taxpayer/Taxpayer's Rep./Assessor)
Address: _____

Telephone Number: _____

Date of Appeal

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:1856.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 23:209 (February

1997), amended by the Department of Revenue, Tax Commission, LR 24:493 (March 1998).

Chapter 35. Miscellaneous

§3501. Service Fees—Tax Commission

A. The Tax Commission is authorized by R.S. 47:1838 to levy and collect fees on an interim basis for the period beginning on July 1, 1996, and ending on June 30, 1998, in connection with services performed by the Tax Commission as follows:

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1835 and R.S. 47:1838.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 19:212 (February 1993), amended LR 20:198 (February 1994), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998).

§3507. Claim for Taxes Paid in Error

* * *

**Form 3507
Claim for Refund or Credit
of Taxes Paid in Error**

I. Claimant:
 Name _____
 Mailing Address _____
 City _____ State ____ Zip _____

II. Property:
 Parish _____ Ward ____ Assessment Number _____
 Amount of Claim _____ Description of Property: _____

III. Basis of Claim:
 Dual or multiple payment _____
 Payment on nonexistent property _____
 Payment on property in which taxpayer no longer
 has an interest _____
 Property is eligible for homestead exemption _____
 Clerical error in assessment rolls _____
 Other _____
 The following documents are attached to this form as proof of the basis
 for this claim: _____

IV. Date of Erroneous Payment: _____
 The following proof of date of payment is attached to document _____ t h e
 date(s) of payment(s): _____

Copy of canceled check(s) (both sides) _____
 Receipted tax bill _____
 Other _____

V. Signature: _____
 Property Owner/Authorized Agent

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2108.1.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 16:1063 (December 1990), amended LR 19:212 (February 1993), LR 20:198 (February 1994), LR 22:117 (February 1996), LR 23:209 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:494 (March 1998).

Malcolm B. Price, Jr.
Chairman

9803#049

RULE

**Department of Social Services
Office of Rehabilitation Services
Commission for the Deaf**

Commission Role, Function, Composition, Committees,
Boards, Task Forces, and Executive Director
(LAC 67:VII.305, 307, 329, and 331)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Social Services, Louisiana Rehabilitation Services (LRS) has revised the Commission for the Deaf's rules of operation.

The rules governing Rehabilitation Services' Commission for the Deaf's rules of operation provide for the orderly conduct of the affairs of the commission.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 3. Commission for the Deaf

§305. Role and Function

A. Duties. The duties of the commission, as mandated by law, are to:

* * *

7. certify interpreters and maintain a registry of certified interpreters;

* * *

c. the commission shall establish and appoint a five-person Interpreter Certification Board, at least one of whom shall be deaf and at least one of whom shall be an educational interpreter;

* * *

e. the commission shall waive examination requirements for applicants with valid certification from another state, based on the board's recommendation for reciprocity/recognition;

* * *

10. establish, administer, and promote a statewide program to provide access to all public telecommunication services by persons who are deaf, deaf/blind, and others such as severely hearing impaired or severely speech impaired. This program shall include, but is not limited to:

a. the purchase and distribution of telecommunication devices and related devices for the person listed above;

b. the creation of a dual party relay system to function as a communications bridge between members of the deaf and hearing citizenry; and

c. the creation of a Telephone Access Program Board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:494 (March 1998).

§307. Composition of the Commission

Membership. Membership of the commission is specified by law and consists of 17 members. Ten members are legislated by position held, and seven members are appointed by the governor. These members include:

- 1. legislated members:
 - a. the coordinator of Vocational Rehabilitation Services to the Deaf, or designee;
 - b. the president of the Association of the Deaf, or designee;
 - c. the president of the Registry of Interpreters for the Deaf, or designee;
 - d. the superintendent of the School for the Deaf, or designee;

* * *

 - h. the speaker of the House of Representatives, or designee;
 - i. the president of the Senate, or designee; and
 - j. the secretary of the Department of Health and Hospitals, or designee.
- 2. appointed members:

* * *

 - b. two lay members who shall be parents of deaf individuals;
 - c. two lay members who shall be professionals who work with deaf individuals; and
 - d. one lay member who shall be a hard-of-hearing person.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

§329. Committees, Boards, and Task Forces

* * *

E. Interpreter Certification Board (ICB)

* * *

2. Composition Criteria. The Interpreter Certification Board (ICB) shall consist of five members who shall meet the following criteria:

* * *

d. one member must be deaf and one member must be an educational interpreter.

3. Appointments

a. While the Commission for the Deaf, the Association of the Deaf, the Registry of Interpreters for the Deaf, and the state Department of Education shall each recommend one person with the criteria in §329.E.2 to serve on the Interpreter Certification Board, final appointment rests with the commission, as delegated by legislation.

b. The chair of the commission shall appoint the ICB chair and one member making sure the minimum number of members who are deaf is met.

* * *

5. Terms of Service. The term of appointment to the ICB shall be for a period of two years, beginning in July of 1994. Terms of service between organizational members will

be staggered such that at no time will the entire board be replaced. The first rotation off the board will occur in July 1995. It is understood that the term of office of the chair of the ICB is at the discretion of the chair of the commission. This will require organizations to recommend members every two years to replace the member rotating off the board.

* * *

F. Telephone Access Program Board (TAPB)

1. Purpose. The purpose of the Telephone Access Program Board is to assist the commission in the implementation and maintenance of LAC 67:VII.305.A.10.

2. Responsibilities of the TAPB. Responsibilities include, but are not necessarily limited to:

* * *

3. Membership of the TAPB. Membership shall consist of the following individuals:

* * *

i. a representative of Bell South, selected by Bell South Telephone Company;

* * *

4. Officers of the TAPB. The structure shall provide for:

- a. the chair or designee of the Commission for the Deaf to preside as chair of the TAPB;
- b. election of a vice chair to preside in the absence of the chair and to perform such duties as are assigned by the TAPB, or delegated by the chair;
- c. election of other officer(s) of the TAPB, as deemed necessary;

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

§331. Executive Director

* * *

B. Qualifications. The executive director shall be a trained professional, having experience with individuals who are deaf and skilled in the use of sign language. The executive director may be either a person who is deaf or a person with normal hearing, but preference shall be given to a person who is deaf.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2352 and R.S. 47:1061.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, Commission for the Deaf, LR 13:93 (February 1987), amended LR 17:388 (April 1991), LR 21:589 (June 1995), LR 24:495 (March 1998).

Additional copies of the entire text of this revised policy manual may be obtained at Rehabilitation Services headquarters, 8225 Florida Boulevard, Baton Rouge, LA, at each of its nine regional offices, and at the Office of the State Register, 1051 North Third Street, Baton Rouge, LA.

Madlyn B. Bagneris
Secretary

9803#068

RULE

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Administrative Policy—Retirees with Medicare

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends its administrative policy relative to premiums for retirees with Medicare.

The board has amended its administrative policy to provide that, for those employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only to those who are enrolled for Medicare Parts A and B. Accordingly, the administrative policy of the State Employees Group Benefits Program is hereby amended to provide as follows:

Administrative Policy—Reduced Premium Rates for Retirees with Medicare. For all employees who retire on or after July 1, 1997, the reduced premium rate for retirees with Medicare will be applied only with respect to those persons who are enrolled for Medicare Parts A and B.

James R. Plaisance
Executive Director

9803#056

RULE

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Catastrophic Illness

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document relative to the Catastrophic Illness Endorsement to provide for annual restoration of benefits. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Catastrophic Illness Endorsement provision in the Schedule of Benefits on page 6 of the Plan Document, to read as follows:

Catastrophic Illness Endorsement (Optional)

All eligible expenses are payable at 100 percent following diagnosis of any covered disease.

Maximums for any one disease or combination thereof per lifetime:

Option 1	Option 2
\$10,000 Maximum	\$5,000 Maximum
Automatic Annual Restoration, up to \$1,000	Automatic Annual Restoration, up to \$500

Amend Article 3, Section VI, by adding a new Subsection, designated as Subsection G, to read as follows:

G. Restoration of Catastrophic Illness Endorsement Benefits. On and after January 1, 1997, Catastrophic Illness Endorsement benefits shall be restored by the plan each January 1, up to the maximum amount of the annual restoration as stated in the Schedule of Benefits, provided that such restoration will not increase the lifetime maximum Catastrophic Illness Endorsement benefits above that provided in the Schedule of Benefits.

James R. Plaisance
Executive Director

9803#055

RULE

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Point of Service PPO Regions

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document relative to point of service regions for Preferred Provider Organizations (PPOs) to coincide with Health Maintenance Organization (HMO) service areas. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend Article 3, Section X, Subsection A, Paragraph 1, to read as follows:

B. Point of Service PPO Regions (Areas)

1. The following regions, designated by United States Postal Service ZIP codes, are used to determine whether there is a PPO provider in the same area as the point of service:

- Region 1 Zip Codes 70000 through 70199
- Region 2 Zip Codes 70300 through 70399
- Region 3 Zip Codes 70400 through 70499
- Region 4 Zip Codes 70500 through 70599
- Region 5 Zip Codes 70600 through 70699
- Region 6 Zip Codes 70700 through 70899

Region 7	Zip Codes 71300 through 71499
Region 8	Zip Codes 71000 through 71199
Region 9	Zip Codes 71200 through 71299

James R. Plaisance
Executive Director

9803#054

RULE

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

**Plan Document—Pre-Existing Condition for
Overdue Application; and Special Enrollment**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby amends the Plan Document of Benefits.

The board has amended the Plan Document relative to the pre-existing condition exclusion for overdue applicants and to provide for special enrollments in order to implement changes included in the Health Insurance Portability and Accountability Act of 1996 (U.S. Public Law 104-191), effective July 1, 1997, and the rules and regulations promulgated pursuant thereto, in order to avoid sanctions or penalties from the United States.

The Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amendment Number 1

Amend the introduction to the Plan Document on page 3, after "Group Coverage: Self-insured and self-funded comprehensive medical benefits plan" by inserting the following on the next line:

Plan Year: July 1 - June 30

Amendment Number 2

Amend Article 1, Section I, by adding two new Subsections, designated as Subsections OO and PP, to read as follows:

OO. Group Health Plan—a plan (including a self-insured plan) of, or contributed to by, an employer (including a self-employed person) or employee organization to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families.

PP. *Health Insurance Coverage*—benefits consisting of medical care (provided directly, through insurance or reimbursement, or otherwise) under any hospital or medical service policy or certificate, hospital or medical service plan contract, or HMO contract offered by a health insurance issuer.

However, benefits described in Section 54.9804-1(b)(2) of the rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, are not treated as benefits consisting of medical care.

Amendment Number 3

Amend Article 1, Section II, Subsection B, Paragraph 2, to read as follows:

2. Effective Date of Coverage. Retiree coverage will be effective on the first of the month following the date of retirement, provided the employee and employer have agreed to make and are making the required contributions. Retirees shall not be eligible for coverage as overdue applicants or as special enrollees.

Amendment Number 4

Amend Article 1, Section II, Subsection D to read as follows:

D. Pre-Existing Condition - Overdue Application. The terms of the following paragraphs shall apply to all eligible employees who apply for coverage after 30 days from the date the employee became eligible for coverage and to all eligible dependents of employees and retirees for whom the application for coverage was not completed within 30 days from the date acquired.

1. ...
2. ...

3. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

4. If the covered person was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage occurred within 63 days of the date of enrollment for coverage under the program.

Amendment Number 5

Amend Article 1, Section II, by inserting a new Subsection E to read as follows, and redesignating current Subsections E, F, and G as Subsections F, H, and I, respectively:

E. Special Enrollments. In accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the regulations promulgated pursuant thereto, certain eligible persons for whom coverage was previously declined, and who would

otherwise be considered overdue applicants, may enroll under the following circumstances, terms, and conditions for special enrollments:

1. Loss of Other Coverage. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined because such employees or dependents had other coverage which has terminated due to:

a. loss of eligibility through separation, divorce, termination of employment, reduction in hours, or death of the plan participant; or

b. cessation of employer contributions for the other coverage, unless such employer contributions were ceased for cause or for failure of the individual participant; or

c. the employee or dependent having had COBRA continuation coverage under another plan, and the COBRA continuation coverage has been exhausted, as provided in HIPAA.

2. After Acquired Dependents. Special enrollment will be permitted for employees or dependents for whom coverage was previously declined when the employee acquires a new dependent by marriage, birth, adoption, or placement for adoption.

3. Special enrollment application must be made within 30 days of the termination date of the prior coverage or the date the new dependent is acquired. Persons eligible for special enrollment for whom application is made more than 30 days after eligibility will be considered overdue applicants, subject to the provisions of Article 1, Section II, Subsection D above.

4. The effective date of coverage shall be the first of the month following the date of the receipt by the State Employees Group Benefits Program of all required forms for enrollment.

5. The program will require that all special enrollment applicants complete a statement of physical condition form and sign an acknowledgment of pre-existing condition form.

6. Medical expenses incurred during the first 12 months that coverage for the employee and/or dependent added through special enrollment is in force under this contract will not be considered as covered medical expenses if they are in connection with a disease, illness, accident or injury for which medical advice, diagnosis, care, or treatment was recommended or received during the six-month period immediately prior to the effective date of such coverage. In no event will the provisions of this Paragraph apply to pregnancy.

7. If the employee and/or dependent added through special enrollment was previously covered under a group health plan, health insurance coverage, Part A or B of Title XVII of the Social Security Act (Medicare), Title XIX of the Social Security Act (Medicaid) other than coverage consisting solely of benefits under Section 1928 thereof, or other creditable coverage as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, and the rules and regulations promulgated pursuant thereto, the duration of the prior coverage will be credited against the initial 12-month period used by the program to exclude benefits for a pre-existing condition provided, however, that termination under the prior coverage

occurred within 63 days of the date of coverage under the program.

James R. Plaisance
Executive Director

9803#058

RULE

Department of the Treasury Board of Trustees of the State Employees Group Benefits Program

Plan Document—Prescription Drug

In accordance with the applicable provisions of R.S. 49:950, the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the board of trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board of trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document relative to prescription drug benefits to provide a minimum copayment of \$12 for brand name drugs. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars:

Amend the Prescription Drug provision under "Percentage Payable after Satisfaction of Applicable Deductibles" in the Schedule of Benefits on page 5 of the Plan Document, to read as follows:

Prescription Drugs (subject to a minimum copayment of \$3 per prescription for generic drugs, and \$12 per prescription for brand name drugs, not to exceed the maximum allowable charges):

90 percent Network;
50 percent nonNetwork, in state;
80 percent nonNetwork, out of state.
* * *

Amend Article 3, Section XI, Subsections A and D to read as follows:

XI. Prescription Drug Benefits

* * *

A. Upon presentation of the Group Benefits Program Identification card at a network pharmacy, the Plan Member shall be responsible for payment of 10 percent of eligible charges for the drug, with a minimum copayment of \$3 per prescription when a generic drug is dispensed and \$12 per prescription when a brand name drug is dispensed, provided, however, that in no event will a combination of payments made by the prescription benefits management firm and the Plan Member exceed the actual charge by the pharmacy for the drug.

* * *

D. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs shall be limited to the prescription benefits management firm's maximum allowable charge and eligible expenses for generic

drugs shall be limited to the prescription benefits management firm's generic maximum allowable charge.

* * *

James R. Plaisance
Executive Director

9803#053

RULE

**Department of the Treasury
Board of Trustees of the State
Employees Group Benefits Program**

Plan Document—Sleep Disorders

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby amends the Plan Document of Benefits.

The board has amended provisions of the Plan Document to limit benefits for the treatment of sleep disorders. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars: amend Article 3, Section VIII, Subsection OO, to read as follows:

VIII. Exceptions and Exclusions for All Medical Benefits

No benefits are provided under this contract for:

* * *

OO. Testing for sleep disorders, except when such tests are performed at a facility accredited by the American Sleep Disorders Association and interpreted by a physician certified by the American Sleep Disorders Association; benefits otherwise payable are provided for nonsurgical treatment of sleep disorders, but no benefits are provided under any circumstances for sleep studies conducted in a patient's home, nor for surgical treatment of sleep disorders, including LAUP, except following demonstrated failure of nonsurgical treatment and only upon specific case-by-case approval by the Program;

James R. Plaisance
Executive Director

9803#057

RULE

**Department of the Treasury
Board of Trustees of the Teachers' Retirement System**

Rules Codification/Repromulgation
(LAC 58:III.Chapters 1-13)
(Repeal of §§101, 103, and 105)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of

Trustees of Teachers' Retirement System of Louisiana (TRSL) approved the repeal of certain existing rules, as indicated in its newly codified version of its rules given herein. The rules to be repealed refer to retirement laws concerning transfers of service credit and purchases of service credit. These retirement laws were superseded by the passage of R.S. 11:158. The effective date of this repeal/repromulgation of rules is March 20, 1998, pursuant to the notice of intent published December 20, 1997.

Title 58

RETIREMENT

Part III. Teachers' Retirement System

Chapter 1. General Provisions

§101. Transfer to the System

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:143 and 11:730.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Teachers' Retirement System, LR 2:44 (January 1976), repealed LR 24:499 (March, 1998).

§103. Service Credit

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:142, 11:144, 11:727, and 11:786.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Teachers' Retirement System, LR 3:81 (February 1977), repealed LR 24:499 (March 1998).

§105. Cost Computations

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:728.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Teachers' Retirement System, LR 9:849 (December 1983), repealed LR 24:499 (March 1998).

§107. Mandatory Submission of Contribution Reports

All employers with 125 or more employees being reported must submit information to Teachers' Retirement System of Louisiana (TRSL) by computer tape/diskette in the following manner:

1. Each month the employer shall certify to the Board of Trustees, by means of computer tape/diskette, the amounts of salary and deductions from the employees' salaries to be paid to the annuity savings fund and credited to the individual accounts of members from whose compensation the deductions were made.

2. All computer tape/diskette formats and specifications must be in accordance with criteria established by TRSL.

3. Both computer tapes/diskettes and printed copies thereof must be submitted by the fifteenth of the month following the end of the month covered by the report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:873(2).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1242 (December 1996), repromulgated LR 24:499 (March 1998).

Chapter 3. Re-Employment of Retirees

§301. Retirees Returning to Work at Charter Schools

A. Any retiree receiving a retirement benefit from Teachers' Retirement System of Louisiana (TRSL), who subsequently returns to work at a school chartered under the provisions of R.S. 17:3971-3982, shall be governed by the

return-to-work provisions contained in R.S. 11:707, 737, 738, 739, 780.1, 783(A), or 791, whichever is applicable.

B. Local school systems granting charters will be responsible for reporting to TRSL, in accordance with R.S. 11:707, the employment of any TRSL retiree by the charter school. Failure to report this information will result in penalties assessed in accordance with R.S. 11:737.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3971 -3982 and R.S. 11:707, 737, 738, 739, 780.1, 783(A), and 791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of Teachers' Retirement System, LR 22:290 (April 1996), repromulgated LR 24:499 (March 1998).

Chapter 5. Deferred Retirement Option Plan

§501. Service Requirements

A. Members of the Teachers' Retirement System of Louisiana (TRSL), in lieu of terminating employment and accepting a retirement allowance, may elect to participate in the Deferred Retirement Option Plan (DROP) in accordance with R.S. 11:786-791 when the following eligibility requirements for plan participation are met:

1. Regular Plan members:
 - a. 30 years of service credit at any age;
 - b. 25 years of service credit and at least age 55;
 - c. 20 years of service credit and at least age 65 (excluding military service);
 - d. 10 years of service credit and at least age 60 (excluding military service);
 - e. those members with 10 years of service credit and who are at least age 60 will have retirement benefits calculated using a 2 percent benefit formula.
2. School Food Service Plan A members:
 - a. 30 years of service credit at any age;
 - b. 25 years of service credit and at least age 55; and
 - c. 10 years of service credit and at least age 60 (excluding military service).
3. School Food Service Plan B members:
 - a. 30 years of service credit and at least age 55; and
 - b. 10 years of service credit and at least age 60 (excluding military service).

B. DROP participation may begin or end any day of the month. The effective date for participation in DROP will be the date a properly executed DROP application, including the designation of a DROP account beneficiary(ies), is filed in the office of TRSL or the stated effective date on the properly executed DROP application, whichever is later. In the event an employer fails to submit the application in a timely fashion, the provisions of R.S. 11:761 shall apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998).

§503. Management of Drop Accounts

A. Deposits to DROP accounts will be effective on the first day of each month of participation in the plan.

B. DROP account statements will be furnished on a quarterly basis as follows:

1. statements issued during DROP participation will reflect all account deposits for a quarterly period;

2. statements issued after completion of DROP participation and termination of employment will reflect all account withdrawals for a quarterly period; and

3. interest earnings will begin accruing the day after termination of DROP participation and will be deposited to DROP accounts in December of each year. Interest deposits will reflect the interest earned on the account during the previous fiscal year and will be entered on quarterly statements issued for the period of October 1 through December 31.

4. withdrawal payments from DROP accounts will be issued on the fifteenth day of each month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998).

§505. Duration of Drop Participation

Participation in DROP may not exceed a period of three consecutive years. In order to participate for the maximum three consecutive years, the member must begin DROP participation within 60 calendar days after the first possible eligibility requirement for participation is met (refer to §501.A). The participation period must end not more than three years and 60 calendar days from the date the member first became eligible to participate. The participation period may only be shortened by the participant's termination of employment or death.

1. In lieu of a participation period not to exceed the remainder of the three-consecutive-year period from date of first eligibility, a member who became eligible for DROP on or before January 1, 1994, may, at any time, select a participation period which may not exceed two consecutive years.

2. Notwithstanding any other provision of law to the contrary, any member who is participating in the three-year deferred retirement option plan, as set forth in R.S. 11:786(B), may continue to participate in the plan for an additional period of time which equals the difference between the actual participation of that member in that plan and the three-year maximum term of participation, provided the member satisfies all of the following:

a. on January 1, 1994, the member was not eligible for the full three-year period because of years of service credit or age requirements, or both;

b. the member chose to participate in the three-Year plan for the maximum period available;

c. the member is participating in the three-year plan on June 30, 1995;

d. the member furnishes written notice to the system prior to December 31, 1995 or the end of the participation period that the member initially selected, whichever date occurs first.

3. Any member of the Teachers' Retirement System of Louisiana who meets the criteria in §505, including the

required written notice, will be allowed to extend their period of DROP participation through December 31, 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:796-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:500 (March 1998).

§507. Retirement Benefits

Retirement benefits shall begin on the first day of the month immediately following termination of DROP in all of the following cases:

1. voluntary termination—the participant, for any reason, elects to withdraw from DROP prior to completing the selected participation period and also terminates employment;
2. involuntary termination—the participant is terminated by the employer prior to completing the selected participation period and is not rehired by another TRSL employer on the following day; and
3. completion of selected DROP participation period and termination of employment, except when the DROP participation period is completed on any day other than the last day of any month. In such cases, the DROP account deposit shall be prorated to coincide with the date of completion of DROP participation and termination of employment. Retirement benefits shall begin the day after completion of the DROP participation period and termination of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:501 (March 1998).

§509. Withdrawal of Funds from a Drop Account

Withdrawals from a DROP account are not permitted prior to the termination of DROP participation or during employment which continues immediately following the DROP participation period and shall be limited to the following methods:

1. withdrawal of the total DROP account balance at the termination of DROP participation and employment;
2. monthly withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from month to month (refer to §511.A);
3. monthly withdrawals based upon an amount to be withdrawn each month as specified by the participant. This periodic payment shall not vary from month to month, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy (refer to §511.A);
4. annual withdrawals in an amount to be determined by the life expectancy of the participant. This periodic payment shall not vary from year to year. The participant shall select the month in which the annual payment is to be made, and the

first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A);

5. annual withdrawals based upon an amount to be withdrawn each year, as specified by the participant. This periodic payment shall not vary from year to year, and the amount of the withdrawal must be greater than the amount necessary to liquidate the total account balance within the participant's life expectancy. The participant shall select the month in which the annual payment is to be made, and the first payment must be made within the 12-month period immediately following DROP participation and termination of employment (refer to §511.A); and

6. total DROP account balance withdrawal at any time after monthly or annual withdrawals have begun.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:501 (March 1998).

§511. Change of Drop Withdrawal Method

A. The participant will have one opportunity over the duration of DROP account withdrawals to change the chosen withdrawal method if the original method selected was either §509.A.2, 3, 4, or 5. Any change in the withdrawal method must be made in accordance with the life expectancy of the participant, and at no time may the disbursement from the account be less than the amount of the originally selected periodic payment.

B. When the life expectancy of the participant governs the selected periodic withdrawal method, disbursements from the DROP account shall be made in accordance with the following schedule:

LIFE EXPECTANCY SCHEDULE		
Age when DROP Participant Terminates Employment	Number of Months for Permitted Withdrawals	Number of Years for Permitted Withdrawals
Under 56	300 months	25 years
56-60	260 months	21 years
61-65	240 months	20 years
66-70	170 months	14 years
71 and older	120 months	10 years

C. The selection of a withdrawal method and the amount of the periodic payment must be designated by the participant 30 days prior to completion of DROP participation and termination of employment on the form prescribed by TRSL. Should a participant fail to choose a withdrawal method, or to notify TRSL that employment will continue, TRSL will consider the participant still employed. No benefit will be

payable to the participant until official notification of termination of employment, on the prescribed form, is received in the office of TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:501 (March 1998).

§513. Termination of Drop Participation

A. When termination of the DROP participation period occurs because of the death of the participant, or if the death of the participant occurs in the absence of an executed Affidavit of Plan Election, the provisions of R.S. 11:783 shall apply.

B. In the event of the death of the participant during DROP participation, a spousal beneficiary shall select a withdrawal method from the options listed in §509.A. Except for a total DROP account balance withdrawal, the spousal beneficiary will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

C. In the event of the death of the participant during DROP participation, a nonspousal beneficiary(ies) must either withdraw the total DROP account balance or elect equal monthly or annual payments from the DROP account for a period not to exceed five years, and the final distribution from the account shall be made no later than December 15 of the year in which the fifth anniversary of the death occurs. Except for a total DROP account balance withdrawal, the nonspousal beneficiary(ies) will not be permitted to change the withdrawal method previously selected by the participant if disbursements from the account began prior to the participant's death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

§515. Death of Beneficiary

A. In the event of the death of a surviving spousal or nonspousal beneficiary, any remaining DROP account balance will be paid to the estate of the beneficiary.

B. DROP accounts will be subject to all Louisiana laws governing community property, inheritance, and estate matters and will be administered in accordance with applicable state laws and orders of the court.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

§517. Affidavit of Plan Election

A. If a member fails to return a completely executed and notarized Affidavit of Plan Election to choose a retirement benefit option by 90 calendar days after his/her receipt of the unsigned affidavit or by 90 calendar days after the beginning of his/her DROP participation, whichever is later, he/she will be deemed not to have elected to participate in DROP. Employee and employer contributions and appropriate interest or actuarial cost must then be remitted to TRSL for the prior period of TRSL employment in order to receive service credit for that period.

B. For purposes of §517.A, the signed affidavit must be postmarked no later than 90 calendar days after receipt by member of the unsigned affidavit or by 90 days after the beginning of his/her DROP participation, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

§519. Application for Service Retirement

A. Member shall not begin his/her DROP participation until TRSL has received a fully completed, signed, and witnessed original Application for Service Retirement, Form 11A, and a fully completed, signed, and witnessed original Application for DROP, Form 11F. FAX copies will not be accepted for this purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

§521. Teaching Experience

Retirees who return to work under the provisions of R.S. 11:739 shall be governed by the following definition of *teaching experience*. Any work experience which would have qualified the member for TRSL membership under the provisions of R.S. 11:701(23) if the experience had been gained in the Louisiana public education system will be considered *teaching experience*. *Teaching experience* will include qualifying work (including work during DROP) in any recognized education setting, whether public or private, including both in-state and out-of-state locations. If the experience is not documented in the member's file, the member will be responsible for providing documentation from his/her previous employer in a timely manner. *Teaching experience* will not include unused leave, furlough, strike time, or unpurchased leave without pay.

AUTHORITY NOTE: Promulgated in accordance with P-S. 11:739 and R.S. 11:786-791.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 18:621 (June 1992), amended LR 18:1419 (December 1992), LR 19:1601 (December 1993), LR 20:1020 (September 1994), LR 21:1267 (November 1995), LR 23:85 (January 1997), repromulgated LR 24:502 (March 1998).

Chapter 7. Renunciation of Benefit

§701. General

Any person eligible to receive, or receiving, a benefit from the Teachers' Retirement System of Louisiana (TRSQ), may renounce such benefits on the following terms and conditions:

1. The renunciation shall be unconditional and irrevocable. Once a benefit is renounced, TRSL shall have no further obligation or liability with respect to that benefit, and the person renouncing the benefit shall, under no circumstances, be eligible to receive that benefit.

2. A base benefit may only be renounced in its entirety. If a base benefit is renounced, there shall be no eligibility for later adjustment of benefits of any kind. An adjustment to a base benefit (cost-of-living adjustment or adjustment for inflation) may only be renounced in its entirety. If an adjustment is renounced, the base benefit need not be renounced.

3. A benefit may be renounced before or after payment begins. If the renunciation is after the start of payments, any payments received prior to the effective date of the renunciation are not affected.

4. If the party making the renunciation is married, the spouse must join in the renunciation.

5. If the person making the renunciation is subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, only that portion of the benefit due the person making the renunciation may be renounced, except as provided for in R.S. 11:783(D).

6. If the person making the renunciation is legally separated or divorced but is not subject to a court order or community property settlement submitted to and approved by TRSL, in accordance with R.S. 11:291, the renunciation must be approved by the court having jurisdiction over the separation or divorce.

7. If the person making the renunciation is retired and has named a joint and survivor beneficiary, the renunciation cannot affect the joint and survivor beneficiary or benefit, including adjustments to the joint and survivor benefit.

8. A renunciation must be made on a form provided by TRSL and must be executed before a notary public and two witnesses, neither of whom may be a spouse nor presently named beneficiary. The renunciation is effective and irrevocable when received by TRSL and may not be retroactive.

9. A person revoking, or participating in revocation of a benefit, must hold TRSL harmless from such action.

10. A revocation may not be used to terminate active participation in TRSL.

11. Amounts credited to a DROP account cannot be renounced.

12. TRSL makes no representation with respect to the effect of a revocation on a person's eligibility for receipt of any state or federal benefits or for participation in any private, local, state, or federal program. Eligibility for or participation in such programs or eligibility for or receipt of such benefits is an issue for which the person making the revocation is solely responsible. Ineligibility for or termination of participation in such programs or benefits shall not affect the irrevocable

character of the renunciation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 19:1602 (December 1993), repromulgated LR 24:503 (March 1998).

Chapter 9. Computation of Final Average Compensation

§901. Time Frames for Computation

A. Members of the Teachers' Retirement System of Louisiana (TRSL) retiring on or after July 1, 1995 will have their average compensation (highest 36 consecutive or joined months of earnable salary) computed as follows:

1. Full 12-month periods beginning before July 1, 1995 will be calculated using the law in effect on the day the 12-month period begins;

2. Full 12-month periods beginning on or after July 1, 1995 will be calculated using the law in effect on July 1, 1995.

B. A full 12-month period of the highest 36 consecutive or joined months of earnable salary is defined to be months one through 12, or months 13 through 24, or months 25 through 36.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(5).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:1266 (November 1995), repromulgated LR 24:503 (March 1998).

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. General

Any TRSL retiree, beneficiary, or survivor is eligible to participate in a program established for the voluntary deduction from his/her retirement benefit for life, health, supplemental, dental, cancer, or other insurance premiums and for deductions for savings, loans, or other payments to be sent to banks and credit unions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

§1103. Application Process

Application for participation in the program must be made by the insurance carrier, bank, or credit union which is the provider of the coverage, product, service, or depositor of monies and shall be signed by two officers of the company, bank, or credit union. The completed application must be submitted to TRSL for approval prior to any deductions being withheld from the retiree's monthly benefit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

§1105. Requirements

A. Domestic companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B" or better;

3. have been doing business under the same name for not less than three years;

4. provide a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

B. Foreign companies shall:

1. have been licensed to do business in the state of Louisiana for not less than five years;

2. have a current rating in A.M. Best of "B+" or better;

3. have been doing business under the same name for not less than three years;

4. offer a like product, service, or coverage to citizens of Louisiana;

5. be in compliance with all procedural, accounting, and reporting requirements governing employee deductions.

C. Companies/credit unions must be regulated by the Department of Insurance or the Office of Financial Institutions.

D. Companies/credit unions are responsible for submitting a computer diskette of monthly deductions to TRSL by the twelfth day of the month preceding the month for which the deduction will be made, using the format and specifications established by TRSL. Diskettes received after the twelfth day will not be processed. Magnetic tapes will be accepted only under certain conditions. All deductions for a single vendor shall be submitted on one monthly diskette, and the retiree will be allowed only one monthly deduction per vendor. This deduction may cover more than one product for a single vendor. Only deductions received on computer tape/diskette will be processed.

E. Companies/credit unions shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees. Copies shall be made available to TRSL upon request.

F. Companies/credit unions are responsible for contract/loan terms between companies/credit unions and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

G. Retirees may discontinue any voluntary payroll deduction from their monthly benefit check by providing written notification to the vendor.

H. A retiree cannot authorize total deductions which would cause the net amount of the benefit to fall below \$5.

I. Companies/credit unions must have a minimum of 50 TRSL retirees to participate in the program; however, companies will be allowed six months after initial approval to meet the minimum participation requirements.

J. TRSL will not deduct monthly premium amounts for any retiree who owes monies to TRSL or has his/her benefit suspended.

K. Companies/credit unions shall notify TRSL immediately upon learning of the death of a retiree. In the event that TRSL has remitted funds to the company/credit union after the death of a retiree and these funds were not due the retiree, company/credit union shall refund said monies to TRSL after notification.

L. Upon learning of the death of a retiree, even if not notified by the company/credit union, TRSL shall be refunded

any monies transmitted, but not due, after notification. The company/credit union will accept the certification of TRSL as to date of death of retiree as sufficient evidence of date of death in regard to any funds owed to TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998).

§1107. Disclaimer

The company/credit union is prohibited from stating that any product offered has been endorsed or approved by TRSL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

§1109. Transmittal of Withheld Amounts

A. Amounts will normally be transmitted to company/credit union by wire transfer by the tenth of each month. If the tenth is a weekend, the first working day after the tenth will be the date of transmittal. In the event of computer/technical production problems beyond the control of TRSL, it is possible that transmittal of funds would not be made on the tenth day of the month.

B. TRSL will provide the company/credit union a computer printout of the names of individuals, Social Security Numbers, and the amounts withheld.

C. TRSL may adjust printout totals by amounts owed TRSL due to death of an individual. These individuals will be identified by name and Social Security Number.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

§1111. Termination of Payroll Deduction

A. The Board of Trustees may terminate the voluntary payroll deduction program by providing the company/credit union with at least 30 days written notice.

B. Immediately upon notice from TRSL individual company/credit unions may be terminated for unethical conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:821.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998).

Chapter 13. Cost-of-Living

§1301. Cost-of-Living Adjustment

A. Effective July 2, 1995, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit

of each eligible recipient, as determined in accordance with the formula, $X (A + B + C)$, where:

A = the number of years of credited service accrued at the time of retirement or death of the member or retiree;

B = the number of years since retirement or since death of the member or retiree to July 1, 1994;

C = the number of years of service credit greater than 30 years; and
X = one dollar.

C. No increase in benefit shall be paid to any retiree, beneficiary, or survivor unless such person was receiving benefits on, or prior to, July 1, 1994. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on, or prior to, July 1, 1994.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787(D) and 11:883.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 21:473 (May 1995), repromulgated LR 24:504 (March 1998).

James P. Hadley, Jr.
Director

9803#016

RULE

Department of Wildlife and Fisheries Office of Management and Finance

Nonresident Hunting and Fishing Licenses (LAC 76:I.327)

The Department of Wildlife and Fisheries, Office of Management and Finance hereby adopts a rule relative to the sale of nonresident hunting and fishing licenses.

Title 76

WILDLIFE AND FISHERIES

Part I. Wildlife and Fisheries Commission and Agencies Thereunder

Chapter 3. Special Powers and Duties

Subchapter H. Nonresident Hunting and Recreational Fishing Licenses

§327. Nonresident Hunting and Recreational Fishing Licenses

A. Nonresident hunting and recreational fishing licenses may be purchased by telephone using a Visa or MasterCard credit card. A dedicated "800" telephone number will be established for this purpose. Each applicant shall provide the department with the following information:

1. name;
2. complete address;
3. driver's license number and the state of issue;
4. date of birth;
5. telephone number;
6. Social Security Number;
7. hunter education number (if born after September 1, 1969);
8. beginning date of trip (when purchasing a trip license);
9. harvest information, as required; and

10. name printed on credit card, credit card number, and expiration date.

Licenses will be mailed within the next working day.

B. An administrative fee of \$3 may be assessed for each applicant who completes a purchase through this means.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:642.A.

HISTORICAL NOTE: Promulgated by Department of Wildlife and Fisheries, Office of Management and Finance, LR 24:505 (March 1998).

James H. Jenkins, Jr.
Secretary

9803#052

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Black Bass—Daily Take and
Size Limits (LAC 76:VII.149)

The Wildlife and Fisheries Commission hereby amends a rule for black bass.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing

§149. Black Bass Regulations—Daily Take and Size Limits

A. The Wildlife and Fisheries Commission establishes a statewide daily take (creel limit) of 10 fish for black bass (*Micropterus spp.*). The possession limit shall be the same as the daily take on water and twice the daily take off water.

B. In addition, the commission establishes special size and daily take regulations for black bass on the following water bodies:

1. Concordia Lake (Concordia Parish) and Caney Creek Reservoir (Jackson Parish):

a. Size limit: 15 inch - 19 inch slot. A 15 - 19 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 15 inches and 19 inches, both measurements inclusive.

b. Daily take: eight fish of which no more than two fish may exceed 19 inches maximum total length.*

c. Possession limit:

i. on water—same as daily take;

ii. off water—twice the daily take.

2. Lake Bartholomew (Morehouse and Ouachita parishes), Black Bayou Lake (Bossier Parish), Chicot Lake (Evangeline Parish), Cross Lake (Caddo Parish), John K. Kelly-Grand Bayou Reservoir (Red River Parish), Lake Rodemacher (Rapides Parish) and Vernon Lake (Vernon Parish):

a. Size Limit: 14 inch - 17 inch slot. A 14 - 17 inch slot limit means that it is illegal to keep or possess a black bass whose maximum total length is between 14 inches and 17 inches, both measurements inclusive.

- b. Daily Take: eight fish of which no more than four fish may exceed 17 inches maximum total length.*
- c. Possession limit:
 - i. on water—same as daily take;
 - ii. off water—twice the daily take.
- 3. False River (Pointe Coupee Parish)
 - a. Size limit: 14 inch minimum size limit.
 - b. Daily Take: five fish.
 - c. Possession limit:
 - i. on water—same as daily take;
 - ii. off water—twice the daily take.

**Maximum Total Length*—the distance in a straight line from the tip of the snout to the most posterior point of the depressed caudal fin as measured with mouth closed on a flat surface.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6 (25)(a), 325(C), 326.3.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 14:364 (June 1988), amended LR 17:278 (March 1991), repromulgated LR 17:488 (May 1991), amended LR 17:1122 (November 1991), LR 20:796 (July 1994), LR 23:1168 (September 1997), LR 24:505 (March 1998).

Thomas M. Gattle, Jr.
Chairman

9803#051

Notices of Intent

NOTICE OF INTENT

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

Donation of Structural Pest Control Work (LAC 7:XXV.163)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., The Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission proposes to adopt regulations governing the donation of structural pest control work to individuals who otherwise could not afford such services in order to improve the living conditions and their quality of life. These rules comply with and are enabled by R.S. 3:3203(A).

No preamble concerning the proposed rules is available.

Title 7

AGRICULTURE AND ANIMALS

Part XXV. Structural Pest Control

Chapter 1. Structural Pest Control Commission

§163. Donation of Structural Pest Control Work

A. Structural pest control operators licensed by the Structural Pest Control Commission may donate, in accordance with this Section, structural pest control services to eligible individuals or organizations who otherwise could not afford such services in order to improve living conditions and their quality of life.

B. The Structural Pest Control Commission, at the request of the Louisiana Pest Control Association or any other state or local Not-For-Profit association of pest control operators, may approve a plan for the donation of pest control services to individuals or organizations that are in need of, but unable to afford such services.

C. Any plan submitted to the Structural Pest Control Commission must state:

1. the purpose of the plan;
2. the organization(s) or group(s) of persons receiving such services;
3. the nature of the services to be provided;
4. the location(s) at which the services are to be provided;
5. the length of time the program is to run;
6. the licensed pest control operators who are expected to participate;
7. any other information the commission may deem necessary to properly evaluate the plan.

D. Upon approval of any such plan by the commission, the Louisiana Department of Agriculture and Forestry shall suspend:

1. the fee for termite contracts required under LAC 7:XXV.117.M; and

2. the requirements of LAC 7:XXV.123 pertaining to contracts.

E. The Rules and Regulations suspended by Subsection D above are waived only for the duration of the program and only in connection with structural pest control work performed by participating licensed pest control operators on buildings and structures at the specific locations listed in the approved plan.

F. The month of June is the Louisiana Pest Control Month. All programs for the donation of pest control work shall begin in June and end at the time specified in the plan that is submitted and approved by the Structural Pest Control Commission. The commissioner may, for exceptional circumstances, approve a plan to begin in a month other than June.

G. A copy of the approved plan, showing the list of specific eligible locations and the beginning and ending dates of the program shall be published in the potpourri section of the *Louisiana Register* at least 30 days prior to the beginning of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 24:

All interested persons may submit written comments on the proposed rules through April 27, 1998, to David Fields, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806. All interested persons will be afforded an opportunity to submit data, views or arguments in writing at the address above.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Donation of Structural Pest Control Work

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no implementation costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated effect on revenue collections is expected to be a decrease of about \$200 to the state. The regulation suspends the \$5 fee for termite contracts required under LAC 7:XXV.117.M. The estimated number of contracts suspended is about 40.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The estimated benefits will be to eligible individuals or organizations who otherwise could not afford such services in order to improve the living conditions and their quality of life.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will not be an effect on competition and employment.

Skip Rhorer
Assistant Commissioner
9803#044

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Civil Service
Civil Service Commission**

Performance Planning and
Review (PPR) Exceptions

The Department of Civil Service, Civil Service Commission gives notice that the following rule change will be considered to provide agencies with a means to obtain exceptions and/or variations to the Performance Planning and Review (PPR) system found in Chapter 10.

Adopt Rule 10.17

10.17 Exceptions

For compelling reasons, the director may approve exceptions to these rules.

Explanation:

This rule is proposed as a means of allowing the director to authorize documented and necessary exceptions and/or variations to the Performance Planning and Review system established by Chapter 10.

This rule change has been proposed as a means of providing agencies with a process to obtain variations in the rules found in Chapter 10. For example, educational institutions that are closed for portions of the calendar year may find it impossible to remain in compliance with Rules 10.5, 10.6, 10.7, and/or 10.13. The addition of the proposed rule would enable the director to individually assess the need for variations and approve those that are deemed to be compelling.

Persons interested in making comments relative to these proposals may do so at the public hearing or by writing to the director of State Civil Service at Box 94111, Baton Rouge, LA 70804-9111. If any accommodations are needed, notify the Department of Civil Service prior to this meeting.

The Civil Service Commission will hold a public hearing on April 8, 1998 to consider the rule proposal. The hearing will begin at 9 a.m. and will be held in the Department of Civil Service Second Floor Hearing Room, DOTD Annex Building, 1201 Capitol Access Road, Baton Rouge, LA.

Allen H. Reynolds
Director

9803#009

NOTICE OF INTENT

**Department of Economic Development
Office of Financial Institutions**

Disbursement of Security Monies (LAC 10:XV.503)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority granted by R.S. 9:3576.1 et seq., the Commissioner of the Office of Financial Institutions gives notice of his intention to promulgate a rule to provide for the

procedures this office and all affected constituents are to follow upon suit being brought against a surety bond or other security monies; and further to provide for a dissolution procedure to liquidate a forfeited surety bond or other security monies.

The text of this rule may be viewed in its entirety in the emergency rules section of this issue of the *Louisiana Register*.

Interested persons may submit written comments on the proposed rule, via U.S. Mail only, to Gary L. Newport, Chief Attorney, Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, no later than 4 p.m. Friday, April 10, 1998.

Larry L. Murray
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Disbursement of Security Monies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The only anticipated cost associated with the implementation of this rule is the \$160 publication cost in the *Louisiana Register*.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revision will provide procedures to distribute funds received by this office from collection agencies through surety bonds or other pledged securities in the amount of \$10,000. Clients of collection agencies who have claims against the bonds or other security will benefit by recovering money collected on their behalf but not remitted. It is estimated that one \$10,000 disbursement will occur annually.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Larry L. Murray
Commissioner
9803#047

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Total Quality Management
(TQM) Certification (LAC 28:I.903)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the State Board of Elementary and Secondary Education has approved for advertisement an amendment to Bulletin 746, referenced in LAC 28:I.903.A. The amendment is to the associate degree

general education instructor's certification requirements to certify them to teach the Total Quality Management (TQM) course in the Technical College System.

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§903. Teacher Certification Standards and Regulations

A. Bulletin 746

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.
HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education, LR 24:

**Associate Degree—General Education Instructor
Chapter XXXVIII. Associate Degree General Education
Instructors: Full-Time T.O. Positions.**

A.1. - 4. ...

5. Special certification is required to teach the Total Quality Management (TQM) Course. The instructor must have a minimum of a bachelor's degree and have completed the 25-hour Train the Trainer course or have a minimum of a bachelor's degree and successfully completed Psychology 200 (Total Quality Management), 3 credit hours, with a minimum grade of C.

6. In exceptional cases, outstanding professional experience and demonstrated contributions to the teaching discipline may be presented in lieu of formal academic preparation. Such exceptions must be justified by the institution on an individual basis, and

* * *

**Chapter XXXIX. Associate Degree General Education
Instructor: Full Time T.O. (JTPA, Carl Perkins, etc.),
Extension, Part-Time, and Substitute**

A.1. - 4. ...

5. Special certification is required to teach the Total Quality Management (TQM) Course. The instructor must have a minimum of a bachelor's degree and have completed the 25-hour Train the Trainer course or have a bachelor's degree and have successfully completed Psychology 200 (Total Quality Management), 3 credit hours, with a minimum grade of C.

6. In exceptional cases, outstanding professional experience and demonstrated contributions to the teaching discipline may be presented in lieu of formal academic preparation. Such exceptions must be justified by the institution on an individual basis, and

* * *

Interested persons may submit comments until 4:30 p.m., May 10, 1998 to Jeannie Stokes, State Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Total Quality Management
(TQM) Certification**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
BESE's estimated cost for printing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units as a result of this action.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups as a result of this action.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment as a result of this action.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9803#043

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Vo-Tech Senior Citizen Tuition
Exemption (LAC 28:I.Chapter 15)

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 proposes to amend LAC 28:I.1523.E. The amendment adds guidelines to allow Louisiana's senior citizens to obtain training in the Louisiana Technical College System tuition free.

**Title 28
EDUCATION**

**Part I. Board of Elementary and Secondary Education
Chapter 15. Vocational and Vocational-Technical
Education**

Subchapter B. Vocational-Technical Education

§1523. Students

A. - E.22. ...

23. Senior Citizen Tuition Exemption Policy. A *senior citizen* is defined as any person 60 years of age or older.

a. Senior citizens may enroll in a training program/course tuition free on a space available basis each quarter.

b. At the time of application, the senior citizen will provide proof of age through any legal document (birth certificate, driver's license, etc.).

c. The senior citizen will be responsible for application fees, books and supplies, and any other fees assessed by the campus.

d. The senior citizen enrollment count in any program/course cannot be applied to the minimum number of students required to start a new program or to keep a program/course open.

e. The senior citizen will follow the same policies and procedures established for all other students.

f. The senior citizen enrollment status shall be indicated on a separate section of the technical college data collection system.

g. This policy does not apply to senior citizens who are receiving financial assistance which covers the cost of tuition.

F. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 3:404 (October 1977), amended LR 4:240 (July 1978), LR 6:650 (November 1980), LR 8:323 (July 1980), LR 9:209 (April 1983), LR 10:7 (January 1984), LR 10:200 (March 1984), LR 11:617 (June 1985), LR 11:1065 (November 1985), LR 11:1138 (December 1985), LR 12:14 (January 1986), LR 12:92 (February 1986), LR 12:667 (October 1986), LR 12:830 (December 1986), LR 13:84 (February 1987), LR 13:160 (March 1987), LR 14:11 (January 1988), LR 14:12 (July 1988), LR 14:409 (October 1988), LR 14:704 (October 1988), LR 14:790 (November 1988), LR 16:297 (April 1990), LR 16:768 (September 1990), LR 17:589 (June 1991), LR 17:957 (October 1991), LR 18:29 (January 1992), LR 19:1550 (December 1993), LR 20:464 (May 1995), LR 22:809 (September 1996), LR 24:

Interested persons may submit written comments until 4:30 p.m., May 10, 1998, to Jeannie Stokes, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Weegie Peabody
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Vo-Tech Senior Citizen Policy**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

BESE's estimated implementation cost for printing and distributing this policy change and first page of the fiscal and economic impact statement in the *Louisiana Register* is approximately \$60.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There would be a fiscal loss of \$105 per senior citizen each quarter that they are enrolled.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

This would allow senior citizens to attend school tuition free at a savings of \$105 per quarter.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There would be no effect on competition but could afford a senior citizen the opportunity to retrain for a new job skill for employment.

Marlyn J. Langley
Deputy Superintendent
Management and Finance
9803#042

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Elections and Registration
Office of the Commissioner**

Elections and Registration Information Network
Registrar of Voters User Manual (LAC 31:II.301)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 18:31, the Department of Elections and Registration hereby proposes to adopt the rule detailed below which provides for an Elections and Registration Information Network Registrar of Voters User Manual.

In accordance with the provisions of R.S. 18:31, the Department of Elections and Registration is proposing to adopt a rule to provide for an Elections and Registration Information Network Registrar of Voters User Manual. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. In addition, a uniform cost for the preparation of lists of registered voters shall be included in the user manual.

A copy of the preamble may be obtained by writing to Jerry M. Fowler, Commissioner of Elections, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179.

**Title 31
ELECTIONS**

Part II. Voter Registration

Chapter 3. Registrar of Voters

**§301. Elections and Registration Information Network
Registrar of Voters User Manual**

A. The commissioner of elections has established a state voter registration computer system for the registration of voters throughout the state.

B. The commissioner of elections shall provide all registrars of voters with an Elections and Registration Information Network Registrar of Voters User Manual to be utilized with respect to the state voter registration computer system. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. All registrars of voters shall utilize this manual to insure the proper registration of voters. A uniform cost for the preparation of lists of registered voters shall be included

in the user manual. Any updates of the manual provided by the Department of Elections and Registration to the registrars of voters shall be incorporated into the manual by each registrar of voters.

C. The Elections and Registration Information Network Registrar of Voters User Manual shall be submitted to the state attorney general's office for approval. Any updates to the manual shall also receive approval by the state attorney general's office.

D. Copies of the Elections and Registration Information Network Registrar of Voters User Manual can be viewed at the Department of Elections and Registration Office, 4888 Constitution Avenue, Baton Rouge, LA or at each office of the registrars of voters throughout the state, or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 18:31.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 24:

A public hearing on this proposed rule will be held on Monday, April 27, 1998 at the Radisson Hotel and Conference Center, 4728 Constitution Avenue, Baton Rouge, LA, beginning at 1:30 p.m. All interested persons will be afforded an opportunity to present their views orally at said hearing.

Interested persons may submit written comments on the proposed rule until 4:30 p.m. on Friday, April 17, 1998 to Jerry M. Fowler, Commissioner of Elections, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179.

Jerry M. Fowler
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Elections and Registration Information
Network Registrar of Voters User Manual**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The estimated implementation cost to the state is projected as a cost of \$160 to print the notice of intent and final rule in the *Louisiana Register*. There would be an additional cost to file a copy of the manual with the Office of the State Register as provided in the rule. This cost is projected to be a minimal cost to the state.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There is no estimated effect on revenue collections as the result of the adoption of this rule since the department currently has in place a fee schedule for generating voter registration lists. The fee schedule is the same as the fee schedule proposed in the manual.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

There is no estimated increase or decrease in the cost for persons requesting voter registration lists since we are proposing same fee schedule which is currently being assessed.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

There would be no effect on competition and employment.

Carol H. Guidry
Assistant Commissioner
Management and Finance
9803#036

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Elections and Registration
Office of the Commissioner**

**Procurement of Voting Machine Drayage
(LAC 31:III.Chapter 7; repeal of §§737 and 739)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 18:1371, the Department of Elections and Registration hereby proposes to amend LAC 31:III.701, 705, 707, 711, 715, 719, 729, 735, 743, and 747; and repeal §§737 and 739. Chapter 7 is being renamed "Procurement of Voting Machine Drayage" to reflect changes in the content of the Chapter.

A proposed amendment is made to §719 to change the number of days to execute a contract from 10 days to 20 days.

The proposed amendments are required as the result of the passage of Act 600 and Act 873 of the 1997 Regular Legislative Session.

Act 600 transferred the function for the procurement of storage facilities for voting machines from the Department of Elections and Registration to the Division of Administration.

Act 873 required the following changes:

1. bids for drayage can be bid on a regional, as well as a parish, basis;
2. notices of bid shall be forwarded to the parish governing authority and clerk of court;
3. notice of bid shall be prominently posted by the clerk of court
4. invitation of bids shall be advertised in the newspaper of general circulation printed in such parish or, if there is no newspaper printed in such parish, in a newspaper printed in the nearest parish; and
5. notices of invitation of bids shall be furnished 30 days prior to the opening of the bids.

A copy of the preamble may be obtained by writing to Jerry M. Fowler, Commissioner of Elections, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179.

**Title 31
ELECTIONS**

Part III. Procurement

Chapter 7. Procurement of Voting Machine Drayage

Subchapter A. General Provisions

**§701. Authority and Duties of the Commissioner of
Elections**

A. The commissioner of elections shall have the authority and responsibility to promulgate rules and regulations governing the procurement, management, and control of all

voting machines drayage required and set forth in R.S. 18:1371.

B. The chief procurement officer of the Department of Elections and Registration shall be the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:

§705. Delegation of Signature Authority

A. The commissioner of elections or his designee shall sign all contracts for drayage of voting machines.

B. This delegation of signature authority must be in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:

§707. Definition

Drayage—the transporting or cartage of voting equipment as directed by the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:

Subchapter B. Competitive Sealed Bidding

§711. Invitation for Bids, Public Notice, and Bid

Opening

A. All contracts for the drayage of voting machines shall be awarded by competitive sealed bidding on a parish or regional basis.

B. Competitive sealed bidding shall be accomplished by sending out written notices to persons known to be able to provide the department's requirements, and by advertising in accordance with R.S. 18:1371 at least 30 days prior to bid opening.

1. Written notices shall be mailed to those persons who have previously requested an Invitation for Bids for said parish within the previous four years.

2. The written notices and advertisements shall announce:

- a. the type of contract;
- b. the parish for which the contract is required;
- c. the method of acquiring an Invitation for Bids; and
- d. the date, time, and place of bid opening.

3. Advertisements shall be published in the state official journal and in the official journal of the parish in which the contract is required. Advertisements shall be published in a newspaper of general circulation printed in such parish or, if there is no newspaper printed in such parish, in a newspaper printed in the nearest parish that has a general circulation in the parish covered by the contract.

4. A notice shall be sent to the parish governing authority and the clerk of court of the parish in which the contract is required. The clerk of court shall prominently post such notice in his office.

C. The Invitation for Bids shall contain:

1. complete description of the transportation required;
2. all applicable terms, conditions, and other requirements;
3. types and limits of insurance required;
4. bid and performance bonding requirements; and
5. factors which will be used to determine responsibility of bidders.

D. Bids shall be publicly opened and read as specified in the Invitation for Bids in the presence of one or more witnesses. Bidders and the public may be present at any bid opening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and R.S. 39:1594.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 19:175 (February 1993), LR 24:

§715. Responsibility of Bidders

A. The commissioner of elections or his designee may make reasonable inquiries to determine the responsibility of prospective contractors. In making his determination, the following factors will be considered:

1. has available the appropriate financial, material, equipment, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements;
2. has a satisfactory record of performance on previous state contracts and with other persons;
3. has a satisfactory record of integrity and compliance with the law;
4. is qualified legally to contract with the state of Louisiana (Prior to award of any contract, the successful bidder shall affirm by affidavit that he or she and/or the principal officers of a corporation are not currently under any felony conviction.); and
5. has reasonably supplied any information requested by the commissioner of elections in establishing responsibility.

B. Each bidder who is determined to be nonresponsible shall be notified in writing. Such notification shall state all reasons for disqualification, and give each bidder who is proposed to be disqualified, a reasonable opportunity to refute the reasons for disqualification at an informal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1601.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:596 (June 1991), amended LR 24:

§719. Bid Guaranty and Bond

A. If specified in the Invitation for Bids, a bond, certified check, or money order payable to the Department of Elections and Registration in the amount of 5 percent of the bid must accompany each bid submitted.

B. If a bidder withdraws his bid after bid opening, without complying with LAC 31:III.717, or fails to execute a contract within 20 days of request, the bid bond or other security shall be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:596 (June 1991), amended LR 24:

§729. Rejection of Bids; Cancellation of Solicitations

A. The commissioner of elections reserves the right to reject any and all bids when it is in the best interest of the state of Louisiana.

1. Reasons for rejecting a bid include, but are not limited to:

a. a determination of nonresponsibility has been made against a bidder;

b. the bid is not responsive (i.e., it did not meet specifications or comply with terms and conditions).

2. Reasons for canceling a solicitation include, but are not limited to:

a. the department no longer requires the service;

b. bids received exceeded budgeted funds or were unreasonable;

c. the solicitation was flawed (i.e., specifications were not complete or were ambiguous);

d. there is reason to believe that the bids received may have been collusive;

e. there is inadequate competition indicated by low response to the solicitation.

B. When bids are rejected, or a solicitation is canceled, written notices shall be given to the bidders, giving the reasons for the rejection or cancellation.

C. When a solicitation is canceled, where appropriate, bidders will be given the opportunity to bid on the new solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581, R.S. 39:1599, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:597 (June 1991), amended LR 24:

§735. Specifications

All specifications shall be written so as to promote as much competition as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), amended LR 24:

§737. Warehouse Specifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21, R.S. 39:1581, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), repealed LR 24:

§739. Lease Amendments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:2(B), R.S. 39:1644, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), repealed LR 24:

§743. Right to Protest

A. All proceedings herewith shall be carried out in accordance with the Conduct of Hearing Rules set forth in LAC 34:I.Chapter 31.

B. Any bidder may protest a solicitation or an award of a contract to the commissioner of elections.

C. In regard to the solicitation of a drayage contract, the protest must be made in writing at least two days prior to the opening of bids.

D. In regard to the award of any contract, a written protest must be made within 14 days after the contract is awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1671 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), amended LR 24:

§747. Suspension and Debarment

A. A bidder and its principal officers and agents may be debarred or suspended from consideration for award of contracts during an investigation for probable cause if it is in the best interests of the state.

B. The commissioner of elections may suspend or debar a person for cause after notice to the bidder has been given, and the bidder has had a reasonable opportunity to respond. A bidder may be suspended if the commissioner of elections determines that there is probable cause to believe that the bidder has engaged in any activity to lead to debarment.

1. The period of time for the suspension of a drayage contract shall be one complete cycle of bidding in all parishes.

2. The period of time for debarment of a drayage contract shall be two complete cycles of bidding in all parishes.

C.1. Causes for debarment shall be in accordance with R.S. 39:1672(C).

2. In addition to the provisions of R.S. 39:1672(C), the commissioner of elections may debar a bidder for the following reasons:

a. the bidder has withdrawn a bid after an award, for whatever reason, more than once;

b. the commissioner of elections may declare other specific reasons for suspension or debarment which is in the best interests of the state.

D. The commissioner of elections shall notify the debarred or suspended bidder in writing of the decision stating the reasons for the action taken. Such notification shall also inform the debarred or suspended bidder's rights to administrative and judicial review.

E. The decision of the commissioner of elections or his designee shall be final unless:

1. the decision is fraudulent; or

2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1684.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1672 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:599 (June 1991), amended LR 24:

Interested persons may submit written comments on the proposed rule until 4:30 p.m. on Friday, April 17, 1998, to Jerry M. Fowler, Commissioner of Elections, Department of Elections and Registration, Box 14179, Baton Rouge, LA 70898-4179.

A public hearing on this proposed rule will be held on Monday, April 27, 1998, at the Radisson Hotel and Conference Center, 4728 Constitution Avenue, Baton Rouge,

LA, beginning at 1 p.m. All interested persons will be afforded an opportunity to present their view orally at said hearing.

Jerry M. Fowler
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Procurement of Voting Machine Drayage**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The estimated implementation cost to the state is projected as a cost of \$640 to the print the notice of intent and final rule in the *Louisiana Register*. There would be a savings of \$522 for advertising bids for the storage of voting machines. The bid process for the storage of voting machines was transferred to the Division of Administration.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no estimated effect on revenue collections as the result of the adoption of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There would be no effect on competition and employment.

Carol H. Guidry
Assistant Commissioner
Management and Finance
9803#037

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary**

**Reportable Quantity List
(LAC 33:I.3931)(OA023A*)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.3931 (OS023A*).

This proposed rule is identical to federal law or regulation, 40 CFR 117.3 (7/1/97 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and 40 CFR 302.4 (7/1/97 Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; Appendix A to Section 302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Investigations and Regulation Development Division at the address or phone number given below. No fiscal or economic

impact will result from the proposed rule. Therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4). This proposed rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

The Reportable Quantity List for Pollutants will be replaced by an incorporation by reference to the corresponding federal lists. Incorporation of the federal lists will add an additional 361 compounds and adjust the reporting thresholds for 81 compounds in Louisiana's regulations. The amendments will make the state list more consistent with the federal EPA lists and simplify future revisions. Existing state reportable quantities that differ from the federal lists have been preserved in a Modifications or Exceptions table. EPA made significant amendments to the federal reportable quantity lists in June 1995 and May 1996. The department proposed amending its reportable quantity list to add new listings and adjust existing listings. Public comment on the proposal included a suggestion to adopt federal reporting thresholds by reference. The basis and rationale for this rule are to assure the Reportable Quantity List for Pollutants in Louisiana is equivalent to the EPA reportable quantity lists. Comparison of federal and state reportable quantity lists will be unnecessary for most pollutants. Eliminating the need to refer to multiple lists during a release will minimize confusion and delays that could worsen an emergency condition.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification Regulations

**Chapter 39. Notification Regulations and Procedures
for Unauthorized Discharges
Subchapter E. Reportable Quantities for Notification
of Unauthorized Discharges**

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

- 1. 40 CFR 117.3 (7-1-97 Edition) Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to section 311 of the Clean Water Act; and
- 2. 40 CFR 302.4 (7-1-97 Edition) Table 302.4—List of Hazardous Substances and Reportable Quantities; appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. Modifications or Exceptions. The following modifications or exceptions are made to the federal reportable quantity lists incorporated by reference in Subsection A of this Section.

Pollutant	CAS No. ¹	RCRA ² Waste Number	Pounds
Allyl chloride	107051		1000/10 [®]
Aniline	62533	U012	5000/1000 [®]
Antimony*	7440360		5000/100 [®]
Antimony Compounds	20008		100 [®]

Barium*	7440393		100 [Ⓔ]
Barium compounds	20020		100 [Ⓔ]
Benzenamine	62533	U012	5000/1000 [Ⓔ]
Biphenyl	92524		100/100 [Ⓔ]
1-Butanol	71363	U031	5000/1000 [Ⓔ]
2-Butanone	78933	U159	5000/1000 [Ⓔ]
n-Butyl alcohol	71363	U031	5000/1000 [Ⓔ]
Carbonic dichloride	75445	P095	10/1 [Ⓔ]
Carbonyl sulfide	463581		100/100 [Ⓔ]
Chlorinated Dibenzo Furans, all isomers			1
Chlorine Dioxide	10049044		1
Chromium ³ *	7440473		5000/100 [Ⓔ]
Chromium compounds	20064		100 [Ⓔ]
Copper ³	7440508		5000/100 [Ⓔ]
Copper Compounds	20086		100 [Ⓔ]
Cumene	98828	U055	5000/1000 [Ⓔ]
1,3-Dichloropropylene	542756		100 [Ⓔ]
Ethyl acrylate	140885	U113	1000/10 [Ⓔ]
Ethylene	74851		5000
Ethylene glycol	107211		5000/5000 [Ⓔ]
Glycol ethers **			100 [Ⓔ]
Hexane	110543		5000/1000 [Ⓔ]
Hydrochloric acid	7647010		5000/1000 [Ⓔ]
Hydrofluoric acid	7664393	U134	100/10 [Ⓔ]
Hydrogen chloride	7647010		5000/1000 [Ⓔ]
Hydrogen fluoride	7664393	U134	100/10 [Ⓔ]
1,3-Isobenzofurandione	85449	U190	5000/1000 [Ⓔ]
Manganese*	7439965		100 [Ⓔ]
Manganese compounds			100 [Ⓔ]
Methanethiol	74931	U153	100/1 [Ⓔ]
Methyl acrylate	96333		10 [Ⓔ]
Methyl ethyl ketone (MEK)	78933	U159	5000/1000 [Ⓔ]
Methyl isobutyl ketone	108101	U161	5000/1000 [Ⓔ]
Methylmercaptan	74931	U153	100/1 [Ⓔ]
Methyl methacrylate	80626	U162	1000/100 [Ⓔ]
4-Methyl-2-pentanone	108101	U161	5000/1000 [Ⓔ]
Methylene diphenyl isocyanate	101688		1000 [Ⓔ]
Nitric acid	7697372		1000/100 [Ⓔ]

Oil			1 barrel
Phthalic anhydride	85449	U190	5000/1000 [Ⓔ]
Polynuclear Aromatic Hydrocarbons ***			1
Produced Water			1 barrel
2-Propenoic acid, ethyl ester	140885	U113	1000/10 [Ⓔ]
2-Propenoic acid, 2-methyl-, methyl ester	80626	U162	1000/100 [Ⓔ]
Propionaldehyde	123386		1000/100 [Ⓔ]
Strontium sulfide	1314961	P107	100
Sweet Pipeline Gas (Methane/Ethane)			42000 (1,000,000 scf)
Thiomethanol	74931	U153	100/1 [Ⓔ]
Vinyl acetate	108054		5000/100 [Ⓔ]
Vinyl acetate monomer	108054		5000/100 [Ⓔ]
Volatile Organic Compounds not otherwise listed ⁴			5000
F003 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F003	100
Methyl isobutyl ketone	108101		5000/1000 [Ⓔ]
n-Butyl alcohol	71363		5000/1000 [Ⓔ]
F005 The following spent non-halogenated solvents and the still bottoms from the recovery of these solvents:		F005	100
Methyl ethyl ketone	78933	U159	5000/1000 [Ⓔ]

* No reporting of releases into the ambient air of this metal is required if the diameter of the pieces of solid metal released is equal to or exceeds 100 micrometers (0.004 inches).

** The combined emissions of all glycol ethers shall be totaled to determine if a Reportable Quantity has been exceeded.

*** The combined emissions of all Polynuclear Aromatic Hydrocarbons (PAHs), excluding any PAHs otherwise listed, shall be totaled to determine if a Reportable Quantity has been exceeded.

¹ Chemical Abstracts Service Registry Number.

² Resource Conservation and Recovery Act of 1976, as amended.

³ Prompt notification of releases of massive forms of these substances is not required if the diameter of the pieces of the substance released is equal to or exceeds 100 micrometers (0.004 inches).

⁴ The combined emissions of all volatile organic compounds (VOCs), excluding any VOCs otherwise listed, shall be totaled to determine if a reportable quantity has been exceeded. VOC is defined in LAC 33:III.111 and exempt compounds are listed in LAC 33:III.2117.

[Ⓔ] The first RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into or onto all media within any consecutive 24-hour period. The second RQ listed denotes the reportable quantities that will apply to unauthorized emissions based on total mass emitted into the atmosphere.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 30:2060(H), 30:2076(D), 30:2183(I), 30:2194(C), 30:2204(A), and 30:2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:

A public hearing will be held on April 27, 1998, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Patsy Deaville at the address given below or at (504) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Commentors should reference this proposed regulation by OS023A*. Such comments must be received no later than April 27, 1998, at 4:30 p.m., and should be sent to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70884 or to FAX (504) 765-0486. The comment period for this rule ends on the same date as the public hearing.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 804 Thirty-first Street, Monroe, LA 71203; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 3519 Patrick Street, Lake Charles, LA 70605; 3501 Chateau Boulevard, West Wing, Kenner, LA 70065; 100 Asma Boulevard, Suite 151, Lafayette, LA 70508; or on the Internet at <http://www.deq.state.la.us/olae/irdd/olaeregs.htm>.

Herman Robinson
Assistant Secretary

9803#062

NOTICE OF INTENT

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

FY 1998-99 State Plan
on Aging (LAC 4:VII.1317)

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 amend LAC 4:VII.1317, the FY 1998 - 1999 State Plan on Aging, effective July 1, 1998. This rule change is in accordance with the *Code of Federal Regulations*, 45 CFR 1321.19 "Amendments to the State Plan," and 45 CFR 1321.35 "Withdrawal of Area Agency Designation" (Volume 53, Number 169, pages 33769 and 33770). The purposes of this rule change are:

(1) to reverse the designation of the Governor's Office of Elderly Affairs as the Area Agency on Aging for the Planning

and Service Area (PSA) consisting of Allen, Calcasieu, and Jefferson Davis parishes;

(2) to designate Allen, Calcasieu, and Jefferson Davis parishes as Planning and Service Areas;

(3) to designate Allen Council on Aging, Inc. as the Area Agency on Aging for the Allen Parish PSA;

(4) to designate the Calcasieu Council on Aging, Inc. as the Area Agency on Aging for the Calcasieu Parish PSA; and

(5) to designate the Jefferson Davis Council on Aging, Inc. as the Area Agency on Aging for the Jefferson Davis Parish PSA.

The FY 1998 - 1999 State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the *Louisiana Register*, Volume 23, Number 9.

Title 4

ADMINISTRATION

PART VII. Governor's Office

Chapter 13. State Plan on Aging

§1317. Area Agencies on Aging

Area Agency on Aging	Planning and Service Area (Parishes Served)
Allen COA	Allen
Beauregard COA	Beauregard
Bienville COA	Bienville
Bossier COA	Bossier
Caddo COA	Caddo
Cajun COA	Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion
Calcasieu COA	Calcasieu
Caldwell COA	Caldwell
Cameron COA	Cameron
Capital Area Agency on Aging (AAA)	Ascension, Assumption, East Feliciana, Iberville, Pointe Coupee, St. Helena, Tangipahoa, Washington, West Baton Rouge, West Feliciana
Cenla AAA	Avoyelles, Catahoula, Concordia, Grant, LaSalle, Rapides, Winn
Claiborne COA	Claiborne
DeSoto COA	DeSoto
East Baton Rouge COA	East Baton Rouge
Jefferson COA	Jefferson
Jefferson Davis COA	Jefferson Davis
Lafourche COA	Lafourche
Lincoln COA	Lincoln
Livingston COA	Livingston
Madison COA	Madison
Morehouse COA	Morehouse

Natchitoches COA	Natchitoches
North Delta AAA	East Carroll, Franklin, Jackson, Richland, Union
New Orleans COA	Orleans
Ouachita COA	Ouachita
Plaquemines COA	Plaquemines
Red River COA	Red River
Sabine COA	Sabine
St. Bernard COA	St. Bernard
St. Charles COA	St. Charles
St. James AAA	St. James
St. John COA	St. John the Baptist
St. Tammany COA	St. Tammany
Tensas COA	Tensas
Terrebonne COA	Terrebonne
Vernon COA	Vernon
Webster COA	Webster
West Carroll COA	West Carroll

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1317 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 24:

Inquiries concerning the proposed amendment to the State Plan on Aging may be directed in writing to Karen J. Ryder, Governor's Office of Elderly Affairs, Box 80374, Baton Rouge, LA 70889-0374.

The Governor's Office of Elderly Affairs will conduct a public hearing to receive comments on the proposed amendment to the state plan on Tuesday, April 24, 1998, in the State Police Training Academy classroom Number 9, 7901 Independence Blvd., Baton Rouge, LA 70806, at 1:30 p.m. All interested parties will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. The GOEA will receive written comments until 4:00 p.m. April 24, 1998.

Paul F. Arceneaux, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FY 1998-99 State Plan on Aging**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in additional 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 local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The costs associated with preparing and developing an area plan for submission to the state agency for approval are expected to be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is not expected to affect competition and employment.

Larry Kinlaw
Appointing Authority
9803#007

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Oil Spill Coordinator's Office**

Natural Resource Damage Assessment
(LAC 43:XXIX.Chapter 1)

In accordance with the provisions of R.S. 30:2480, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office the Oil Spill Coordinator gives notice of its intent to adopt rules for the assessment of natural resources damages from unauthorized discharges of oil.

Title 43

NATURAL RESOURCES

Part XXIX. Oil Spill Prevention and Response

Chapter 1. Natural Resource Damage Assessment

Subchapter A. General Provisions

§101. Declaration and Intent

A. The Louisiana Oil Spill Coordinator in the Office of the Governor adopts these rules pursuant to the Oil Spill Prevention and Response Act (OSPRA), Louisiana Revised Statutes, §30:2451 et seq. These rules are applicable in the event that an unauthorized discharge of oil or a substantial threat of an unauthorized discharge of oil to state waters results in injury to natural resources.

B. These rules should not be in conflict with the National Contingency Plan, the Area Contingency Plan, the State Oil Spill Contingency Plan, and National Oceanic and Atmospheric Administration rules pursuant to the Oil Pollution Act of 1990, Natural Resource Damage Assessments (15 C.F.R. Part 990, published on January 5, 1996, in 61 *Federal Register* 440 et seq.). Thus, the state natural resource trustees are encouraged to cooperate and coordinate their actions with the federal trustees, and in cooperation with the responsible party, to make the environment and the public whole for injuries resulting from unauthorized discharges by assessing natural resource damages for those injuries, presenting a claim for damages (including the reasonable costs of assessing damages), recovering damages, and developing and implementing a plan for the restoration, rehabilitation,

replacement, or acquisition of the equivalent of the injured natural resources and services under their trusteeship.

C. The federal trustees are not bound by these rules and have the right to bring separate claims in addition to any claim made by the state trustees. Even though state and federal trustees may bring a separate claim, double recovery is prohibited. The state trustees may bring a claim for natural resource damages pursuant to their authority under the Oil Pollution Act of 1990 (OPA), 33 USCA, §2701 et seq., or under OSPRA, R.S. 30:2451 et seq. The state trustees may use the natural resource damage assessment procedures established under this rule or under the rules adopted pursuant to OPA, a combination of procedures drawn from both OPA and OSPRA rules, or under the OSPRA rules. Whether the state trustees use OPA procedures, OSPRA procedures, or a combination of OSPRA and OPA procedures, they will perform the field investigation as described in §117 of this Chapter. The state trustees, when using some or all of the OPA procedures, will encourage the federal trustees, as defined in §109 of this Chapter (relating to Definitions), to invite the responsible party to participate in the process pursuant to the procedure in §115 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§103. Applicability

This Chapter applies to any unauthorized discharge or substantial threat on an unauthorized discharge of oil that enters or poses a threat to land, coastal waters, or any other waters of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§105. Usage

As used in these rules, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa, as the case may require. Any reference to "days" in this Chapter shall refer to calendar days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§107. Severability

A. If any section or provision of this Chapter or the application of that section or provision to any person, situation, or circumstance is determined to be invalid by a court of competent jurisdiction for any reason, such adjudication shall not affect any other section or provision of this Chapter, or the application of the adjudicated section or provision to any other person, situation, or circumstance.

B. The Louisiana Oil Spill Coordinator declares that he adopts the valid portions and applications of this Chapter without the invalid sections, and to this end, the provisions of this Chapter are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§109. Definitions

The following words, terms, and phrases, when used in this Chapter, shall have the following meanings, unless the word, term, or phrase is otherwise defined in the text.

Acquisition of Equivalent—the acquisition of a natural resource that provides services substantially equivalent to those injured as the result of an unauthorized discharge of oil.

Area Contingency Plan—the contingency plan required by the Federal Water Pollution Control Act (33 USCA, §1321(j)(4)).

Assessment or Natural Resource Damage Assessment—the process of collecting, compiling, and analyzing information through prescribed procedures and protocols to determine damages for injuries to natural resources and any loss in the services provided by the natural resources resulting from an unauthorized discharge of oil.

Baseline—the condition of the natural resources and services that would have existed had the incident not occurred. Baseline data may be estimated using historical data, reference data, control data, or data on incremental changes (e.g., number of dead animals), alone or in combination, as appropriate.

Coastal Waters—the waters and bed of the Gulf of Mexico within the jurisdiction of the State of Louisiana, including the arms of the Gulf of Mexico subject to tidal influence, estuaries, and any other waters within the state, if such other waters are navigated by vessels with a capacity to carry 10,000 gallons or more of oil as fuel or cargo.

Coordinator—the Louisiana Oil Spill Coordinator.

Cost-Effective—the least costly activity among two or more activities that provide the same or a comparable level of benefits, in the judgment of the trustees.

Damages—damages specified in section 1002(b) of OPA [33 U.S.C. 1002(b)], and includes the costs of assessing these damages, as defined in section 1001(5) of OPA [33 U.S.C. 2701(5)].

Exposure—when all or part of a natural resource is or may be in physical contact with oil or with media containing oil or its degradation products.

Federal Fund—the Oil Spill Liability Trust Fund established by the *Internal Revenue Code of 1986*, 26 USC §9509.

Federal Trustee(s)—official(s) of the federal government designated, according to the Oil Pollution Act of 1990 (33 USCA §2701 et seq.), §2706(b)(2), as trustees who may present a claim for and recover damages for injury to natural resources.

Field Investigation—an evaluation by the State Natural Resource Response Team (state team) of the area impacted by an unauthorized discharge of oil to determine the actual and potential exposure of natural resources and the impact on natural resources and the services they provide for the purpose of evaluating which damage assessment methods, if any, should be utilized by state trustees.

Incident—any unauthorized discharge of oil or series of unauthorized discharges of oil, including the threat of unauthorized discharge of oil, having the same origin, involving one or more vessels, facilities, or any combination thereof.

Injury or Loss or Loss of Services—any observable or measurable adverse change, either long or short term, in the chemical or physical quality or the viability of a natural resource or any impairment of a service provided by that resource resulting either directly or indirectly from exposure to an unauthorized discharge of oil.

Lead Administrative Trustee—the trustee, either the Louisiana Oil Spill Coordinator or his designee, responsible for compiling the administrative record and for coordinating activities of the trustees in the natural resource damage assessment process.

National Contingency Plan—the plan prepared and published as revised from time to time, under the Federal Water Pollution Control Act (33 U.S.C. §§ 1321 et seq.) and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.).

Natural Recovery—the process through which injured natural resources and their services return to baseline condition without additional human intervention.

Natural Resources—all land, fish, shellfish, fowl, wildlife, biota, vegetation, air, water, groundwater supplies, and other similar resources owned, managed, held in trust, regulated, or otherwise controlled by the State of Louisiana.

Negotiated Assessment—a restoration plan agreed upon by the coordinator, in consultation and agreement with any other state trustees, and the responsible party.

Oil—oil of any kind or in any form including, but not limited to, crude oil, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 USCA, §9601(14)(A)-(F), and which is subject to the provisions of that Act.

OSPR—the Oil Spill Prevention and Response Act Louisiana Revised Statutes 30:2451 et seq.

On-Scene Coordinator or State On-Scene Coordinator or SOS—the Louisiana Oil Spill Coordinator or state official designated by the coordinator to coordinate and direct response actions under the State Oil Spill Contingency Plan pursuant to R.S. 30:2464.

Pathway—the medium, mechanism, or route by which the incident has resulted in an injury. For discharges of oil, a pathway is the sequence of events by which:

- a. the oil traveled through various components of an ecosystem and contacted the natural resource of concern; or
- b. exposure to oil in one part of an ecosystem was transmitted to the natural resource of concern, without the oil directly contacting the natural resource.

Public Use(s)—the services provided by natural resources for human activities. This includes, but is not limited to, cultural, archaeological, transportation, public water supply, industrial water supply, swimming, fishing, harvesting of natural resources, nature viewing, hunting, diving, sailing, boating, hiking, camping, climbing, photographing, drawing, painting, and other human uses.

Recovery—the return of the injured natural resource and service to baseline conditions.

Reference Area or Reference Resource—an area or natural resource, unaffected by the relevant unauthorized discharge of oil, and comparable in physical, chemical, and biological characteristics or in the level of services provided in the area or areas within which natural resources and the services they provide have been affected directly or indirectly by the unauthorized discharge of oil.

Rehabilitation—those actions which enhance the recovery of injured natural resources.

Replacement—substituting natural resources at or near the impacted area to compensate for the loss of natural resources due to an unauthorized discharge of oil.

Responsible Party or Responsible Parties—

- a. the owner(s) or operator(s) of a vessel or terminal facility from which an unauthorized discharge of oil emanates or threatens to emanate; and
- b. in the case of an abandoned vessel or facility, the party who would have been responsible immediately prior to the abandonment; and
- c. any other person, but not including a person or entity who is rendering care, assistance, or advice in response to a discharge or threatened discharge of another person, who causes, allows, or permits an unauthorized discharge of oil or threatened unauthorized discharge of oil.

Restoration—any action (or alternative), or combination of actions (or alternatives), to restore, rehabilitate, replace, or acquire the equivalent of injured natural resources and services, and may include:

- a. *Primary Restoration*—any action, including natural recovery, that returns injured natural resources and services to baseline; and
- b. *Compensatory Restoration*—any action taken to compensate for interim losses of natural resources and services that occur from the date of the incident until recovery.

Restoration Plan—a plan developed for public review and comment that describes the restoration alternatives to be considered in the restoration, rehabilitation, replacement, and/or acquisition of equivalent natural resources.

Services, Ecological Services, or Natural Resource Services—the services provided by natural resources for the benefit of other natural resources and/or the public and includes, but is not limited to, water purification, flood control, erosion control, shelter, food supply, and reproductive habitats.

State Oil Spill Contingency Plan—the plan required by R.S. 30:2456.

State Trustee(s) or Trustee(s)—the Louisiana Oil Spill Coordinator's Office, the Louisiana Department of Environmental Quality, the Louisiana Department of Natural Resources, and the Louisiana Department of Wildlife and Fisheries, and may include other gubernatorially appointed state agencies whose trust natural resources may be affected.

Unauthorized Discharge of Oil—any actual or threatened discharge of oil not authorized by a federal or state permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

Subchapter B. State Trustee Response, Organization, and Coordination

§111. Notification of an Unauthorized Discharge of Oil

A. The coordinator shall promptly notify all state trustees of all reported unauthorized discharges of oil into coastal waters.

B. After observing the characteristics of the unauthorized discharge of oil and the location of the affected natural resources, if the SOSC determines that the quantity or properties of the oil discharged or the natural resources potentially impacted by the oil differ significantly from the initial report, the SOSC shall promptly provide the state trustees with an updated report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§113. Coordination of Trustee Response to an Unauthorized Discharge of Oil

A. The trustees and the SOSC or his designated representative shall, through the unified incident command system:

1. assist each other in prioritizing protection of natural resources during any unauthorized discharge of oil. The trustees shall be available, throughout the response to the unauthorized discharge of oil, to advise and assist the SOSC regarding the impact of response activities on natural resources;

2. confer on a daily basis in accordance with the National Contingency Plan, Area Contingency Plans, Regional Contingency Plans and the State Oil Spill Contingency Plan;

3. integrate and coordinate response and assessment activities whenever such integration and coordination does not interfere with response activities; and

4. exchange information related to the impact of response activities on natural resources. The SOSC shall provide the trustees with an incident report detailing the quality and effectiveness of the responsible party's containment and removal actions and the protection and preservation of natural resources.

B. The SOSC shall advise the trustees when the impacted area is safely accessible for damage assessment activities. The SOSC shall allow access to the impacted area in accordance with the site safety plan. The SOSC may limit the trustee activities only if such activities would create an unreasonable interference with response actions.

C. The trustees shall conduct natural resource damage assessments by:

1. developing and utilizing contingency planning to enhance coordination among all trustees, emergency response agencies, and responsible parties to ensure a consistent and comprehensive response to unauthorized discharges of oil;

2. coordinating and exchanging scientific, technical, economic and legal expertise among the trustees and responsible party;

3. integrating all scientific, technical, economic, and legal issues;

4. executing, when necessary, contracts to procure the services of appropriate experts;

5. providing the opportunity for early participation in the assessment process by the responsible parties; and

6. informing the Louisiana attorney general of state trustee actions during the assessment process;

7. providing opportunity for public review and comment.

D. The state trustees shall coordinate with the federal trustees in all phases of the damage assessment and restoration process. The state trustees may use the State Oil Spill Contingency Plan, the Area Contingency Plans, and the National Contingency Plan.

E. A single lead administrative trustee shall be designated. Additional duties may be assigned to the lead administrative trustee by agreement of all trustees, but the lead administrative trustee shall:

1. coordinate the natural resources damage assessment and organize communication among the trustees and with the responsible party regarding the assessment. The lead administrative trustee shall perform all administrative tasks required to disseminate information to all participants in the assessment and to ensure that the assessment is completed within the time periods provided by OSPRA, including any extensions granted;

2. prepare and maintain the administrative record as required by §127 of this Chapter; and

3. ensure that disagreements among trustees are expeditiously resolved.

F. If a trustee takes action as a result of a discharge of oil prior to the designation of a lead administrative trustee, that trustee shall document those actions and transmit that documentation to the lead administrative trustee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§115. Responsible Party Participation

A. Pursuant to federal regulations (15 C.F.R. §990 et seq.) and Louisiana R.S. 30:2451 et seq., the trustees are directed to involve the responsible party in natural resource damage assessment as soon as practicable and no later than the delivery of the "Notice of Intent." The trustees shall determine the scope of participation by the responsible party given the willingness of the responsible party to participate, their willingness to fund assessment activities, their willingness and ability to conduct assessment activities and to be bound by the results of jointly agreed-upon studies, the degree of cooperation in response to the incident, and their actions in prior assessments.

1. Responsible parties may assist the trustees in the identification of natural resources most at risk from the unauthorized discharge of oil, and may assist the trustees in identifying protective measures to be used in responding to unauthorized discharges of oil, and in identifying personnel and organizations likely to participate in response and assessment activities, with appropriate quality control.

2. The trustees shall invite the responsible party to participate in the assessment process, the field investigation, the selection of assessment methods, the restoration plan, and post-assessment activities. If the responsible party elects to participate in any part of the assessment process, the trustees

and the responsible party should enter into a written agreement whereby the conditions of their respective participation are defined, including provisions to have a trustee representative present when the responsible party conducts any activity pertinent to a cooperative NRDA process, and whereby they agree to provide data acquired to the trustees as described in Subsection C below. This agreement may be drafted concurrently with the commencement of preassessment activities. The trustees may limit or terminate the participation of the responsible party when such participation is inconsistent with or in conflict with the responsibilities of the trustees.

B. Upon the written request of the responsible party, the trustees shall provide photographs, videos, joint or split samples, and final data used and discovered by the trustees during the natural resource damage assessment and the implementation of the resulting restoration plan. Upon the written request of the trustees, the responsible party shall be required to provide photographs, videos, joint or split samples, and final data used and discovered during the natural resource damage assessment and the implementation of the resulting restoration plan. Conditions for sharing samples and data should be incorporated into the written participation agreement described in Subsection A.2 of this Section.

C. Any assessment conducted with the participation of the responsible party shall include any stipulations agreed upon by the responsible party and the trustees. Stipulations may be proposed by either the responsible party or the trustees at any time during the assessment. The stipulations shall continue, and shall be binding on all parties, after termination of the responsible party's participation or after the termination of a negotiated assessment under section XX.34(e) of these rules. Stipulations must be agreed upon by the trustees.

D. Whenever the trustees agree that the responsible party is interfering with their responsibilities or is causing unreasonable delay in the assessment process, the trustees may proceed without the participation of the responsible party after every effort has been made to resolve problems at the level at which they occur, or if necessary, after a hearing with arbitration has taken place between the responsible party and the coordinator. The trustees shall provide the responsible party with a written statement, which they shall include in the administrative record, describing the factual basis for disallowing further participation by the responsible party. The responsible party may rejoin the assessment process or participate without limitation if the responsible party demonstrates, to the satisfaction of the coordinator, that the dilatory or disruptive practices will not reoccur.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

Subchapter C. Natural Resource Damage Assessments

§117. Field Investigation

A. A field investigation will be conducted to determine whether a natural resource damage assessment is necessary, and if so, the scope of the natural resource damage assessment. The trustees shall initiate a field investigation within 24 hours after approval for access to the site by the SOSOC.

B. The trustees shall determine the appropriate methods to be used in conducting the preliminary field investigation which may include sampling and data collection. The trustees shall provide an opportunity for the responsible party to participate in all phases of the Natural Resource Damage Assessment process.

C. Information gathered as part of the field investigation, including sampling protocols and data validations, will be part of the administrative record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§119. Criteria to Be Considered in Deciding to Perform an Assessment

A. The trustees may find injury to a natural resource when:

1. the natural resource was directly or indirectly exposed to oil from an unauthorized discharge of oil; and
2. there was a pathway between the natural resource and the unauthorized discharge of oil; and
3. reliable and valid methods indicate adverse effects on natural resources and services resulting from exposure to discharged oil; or
4. the natural resource and/or service was adversely impacted by response activities either to an actual discharge or the substantial threat of an unauthorized discharge of oil.

B. The trustees may find a loss of services when:

1. the ability of the natural resource to provide services has been reduced as the result of an unauthorized discharge of oil or response activities associated with the substantial threat of an unauthorized discharge; or
2. the ability of the natural resource to provide public uses has been reduced as the result of an unauthorized discharge of oil or the substantial threat of an unauthorized discharge of oil.

§121. Assessment Procedures and Protocols for Determining, Quantifying, and Valuing Natural Resource Injury and Loss of Services

A. The coordinator, in consultation with the trustees, shall determine within 60 days of the determination by the on-scene coordinator that the cleanup is complete whether information gathered during the field investigation(s) indicates that a natural resource damage assessment is warranted.

B. The trustees may use any appropriate and accepted assessment procedures and methods as long as they consider the unique characteristics and the location of the natural resources affected by the unauthorized discharge or substantial threat of unauthorized discharge of oil, including adverse impacts caused by response activities, if any. The methods shall be designed to ensure that the cost of any restoration, rehabilitation, replacement, or acquisition project shall not be disproportionate to the value of the natural resource before the injury.

C. Any assessment generated by the trustees must be reasonable and the costs of conducting the assessment must have a rational and direct connection to the value of the injured resources.

D. In addition, the use of a more complex or expensive method must be reasonably related to the expected increase in

the quantity and/or quality of relevant information provided by the more complex procedure.

E. The procedures must be capable of providing information of use in determining the type and scale of restoration appropriate for the injury.

F. The trustees may petition the coordinator for a longer period of time to make the determination by showing that the full impact of the discharge on the affected natural resources cannot be determined in 60 days.

G. Only after a field investigation which may include sampling and data collection, the trustees shall value the injury to natural resources as a result of an unauthorized discharge of oil. The state trustees shall utilize methods that provide appropriate, valid, and reliable resource values for the injuries associated with the unauthorized discharge of oil. In performing an assessment, the trustees must use generally accepted scientific and technical standards and methodologies that have been demonstrated to produce valid and reliable assessment results. Injury determination, restoration planning, and quantification of restoration costs must be based on a site-specific assessment of the unique characteristics and the location of the natural resources.

H. The range of assessment options includes:

1. Comprehensive Assessment Procedures. A method including sampling, modeling, and other appropriate scientific procedures to make a reasonable and rational determination of injury and cost-effective restoration alternatives to natural resources resulting from an unauthorized discharge of oil and will be used when the coordinator, in consultation with the trustees, determines that an expedited or negotiated assessment procedure is not appropriate.

2. Expedited Assessment Procedures may be used:

a. when the following circumstances exist:

i. the discharge of oil has caused limited observable mortality; and

ii. the extent of injury can be determined within 12 months following the completion of response actions; and

iii. a restoration plan can be initiated within 12 months of completion of the response actions; or

b. when the quantity of oil discharged is less than 1,000 gallons; or

c. when the coordinator, in consultation with the trustees, determines that the expedited damage assessment method is the most cost-effective, technically feasible method for achieving timely restoration of injured natural resources.

3. Negotiated Assessment Procedures. Any assessment method agreed to by the state trustees and the responsible person.

I. If more than one procedure for providing the same type and quality of information is available, the most cost-effective procedure must be used.

J. The coordinator and the trustees shall complete the comprehensive assessment procedure within 20 months of the date of determination by the SOSOC that cleanup is complete. The trustees may petition the coordinator for a longer period of time to make the determination by showing that the full impact of the discharge on the affected natural resources cannot be determined in 20 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§123. Notice of Intent to Perform an Assessment

A. The coordinator, in consultation with the trustees, shall determine within 60 days of the determination by the on-scene coordinator that the cleanup is complete whether action to restore, rehabilitate, replace, acquire the equivalent of injured natural resources is necessary, and determine which assessment procedure is appropriate. The coordinator may decide that a longer period of time is necessary to make the determinations required above.

B. Under R.S. 30:2480(5)(c), the coordinator and trustees are directed to promote participation of the responsible party in all stages of the assessment. The coordinator and trustees shall inform the responsible party as soon as possible that the trustees are conducting activities associated with an unauthorized discharge of oil. The coordinator, after consultation with the trustees, shall provide the responsible party with a written notice of intent to perform a natural resource damage assessment.

C. The notice of intent to perform an assessment shall include:

1. a summary of the activities conducted during the field investigation and other trustee actions to date; and
2. a description of the unauthorized discharge of oil; and
3. an evaluation of the effect of response activities on natural resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§125. Plans for Restoration, Rehabilitation, Replacement and/or Acquisition of the Equivalent of Injured Natural Resources

A. The coordinator, in consultation with the trustees, shall develop and implement a plan for the restoration, replacement, rehabilitation and/or acquisition or relevant research of the equivalent natural resources.

B. Each restoration plan developed by coordinator shall:

1. include an analysis of alternative restoration plans, including natural recovery;
2. be cost-effective and technically feasible. Technical feasibility means the technology and management skills necessary to implement an assessment plan or restoration plan are known such that each element of the plan has a reasonable chance of successful completion;
3. not have costs disproportionate to the value of the natural resources and the services provided by the resources prior to the unauthorized discharge of oil;
4. allow for corrective actions in the execution of the restoration plan;
5. provide for a period of monitoring sufficient to determine the effectiveness of the plan; and
6. be available for public hearing and comment for a period not to exceed 10 working days prior to initiation of the plan.

C. The restoration plan may be developed simultaneously with other portions of the damage assessment. Restoration plans should be developed as early in the process as practicable and may be developed in phases. Phased restoration plans may be used when trustees determine that:

1. pilot projects are necessary to establish the technical feasibility of the restoration plan;
2. restoration of a particular resource and/or service is not possible without first restoring another resource and/or service upon which the first depends;
3. natural recovery is the chosen alternative for some, but not all, of the injured natural resources; or
4. there is a potential for continuing injury resulting from the unauthorized discharge of oil.

D. The restoration plan may include any combination of:

1. restoration; rehabilitation; replacement and/or acquisition of equivalent natural resources; or
2. natural recovery; or
3. an evaluation of the unique characteristics of the spill, designed to provide information to enhance the trustees' response or restoration capabilities and ensure full compensation for injured natural resources.

E. The trustees shall establish criteria for determining when a restoration plan is completed and shall consider:

1. performance standards and appropriate measures for their achievement;
2. natural changes occurring in reference areas; and
3. the ability of the natural resources to maintain their viability without further human intervention.

F. The trustees shall issue a certificate of completion to the responsible party when no further actions are necessary to achieve the goals of the restoration plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

Subchapter D. Administration

§127. Administrative Record

A. The administrative record shall contain documents relied upon by the trustees in selecting appropriate assessment procedures and protocols and in developing restoration plans. The purpose of the administrative record is to ensure documentation of the trustees' decisions.

B. The administrative record shall be developed and maintained by the lead administrative trustee. All closed administrative records from unauthorized discharges of oil into coastal waters shall be maintained by the coordinator as required by the Louisiana Public Records Act (R.S. 44:1 et seq.).

C. Each administrative record shall contain, at a minimum:

1. all final documents and references to documents used by trustees in selecting assessment procedures and protocols, and in developing restoration plans; and
2. all technical, scientific and economic information discovered and relied upon by the trustees during the assessment; and
3. the Notice of Intent to Perform an Assessment; and
4. the field investigation report and all other information considered in the pre-assessment phase; and

5. a copy of the assessment and the restoration plan as presented to the responsible party; and

6. all correspondence, agreements, and other documents related to the role of the responsible party in the assessment process; and

7. comments received from the public and the trustees' response to those comments.

D. The following documents and data shall not be included in the administrative record:

1. drafts, unless a final document is not produced and the draft document is material to decisions made, pre-decisional, deliberative inter-agency and intra-agency documents shall not be included in the administrative record. 2. documents describing analysis of liability or any attorney-client privileged documents or attorney work product documents also shall not be included.

3. any scientific, technical, or economic data that fails to meet all criteria set forth in a quality assurance/quality control plan developed by the trustees may be included only if there is a scientifically reliable basis for utilizing any of the data.

E. The administrative record is a document subject to the Louisiana Public Records Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§129. Recovery of Damages

A. In an action filed pursuant to the Oil Spill Prevention and Response Act (OSPRA), R.S. 30:2480, the trustees may recover those costs which would not have been incurred in the absence of the unauthorized discharge of oil and which are attributable to the performance of the assessment of damages and the development, implementation, and monitoring of the restoration plan, including:

1. the costs of the assessment including, but not limited to:

a. salary, fringe benefits, overhead, release, transportation, lodging, and state per diem costs;

b. the costs of sampling and analyses of oil and natural resources, including reference areas;

c. the costs of laboratories, contractors, and other experts retained by the trustees in assessing injury and determining damages;

d. the cost of the mediation required by §133 of this Chapter (relating to mediation);

2. the costs of restoration, rehabilitation, replacement and/or acquisition of equivalent resources and/or services to hasten recovery to baseline;

3. the costs to diminish further injury to natural resources from the time of the initial discharge until the time of restoration of the injured natural resources and the services they provide;

4. the cost of restoration, rehabilitation, replacement and/or acquisition of equivalent resources and/or services to provide compensation for losses from the time of the initial discharge until the time baseline is achieved;

5. the net loss of taxes, royalties, rents, fees, or net profit share that the state would otherwise have collected in the absence of the unauthorized discharge of oil;

6. all costs that have a rational connection to the assessment and are incurred in the performance of the assessment, and the development, implementation, and monitoring of the restoration plan.

B. The responsible party shall reimburse assessment costs to each state trustee separately.

C. If a responsible party is entitled to a limitation of natural resource damages liability, then any recovery under R.S. 30:2480, shall be limited as provided in R.S. 30:2479.

D. In the event that the responsible party does not reimburse trustees, the state trustees shall be reimbursed from the Oil Spill Contingency Fund pursuant to this Subsection. If the responsible party fails to pay, the Oil Spill Contingency Fund is liable for all natural resource damages assessed as the result of injuries caused by an unauthorized discharge of oil into coastal waters.

1. State Trustee Costs

a. State trustees may recover from the Oil Spill Contingency Fund all costs incurred responding to an unauthorized discharge of oil and in assessing damages resulting from injuries to natural resources caused by an unauthorized discharge of oil into coastal waters.

b. State trustees must submit directly to the coordinator satisfactory proof of costs incurred. Satisfactory proof of costs is compliance with the procedures prescribed by and according to the rules of the comptroller of public accounts of the State of Louisiana. The coordinator will recommend that the comptroller make payment to the state trustees for their assessment costs.

2. In the event the responsible party fails to pay a natural resource damage assessment claim, the state trustees may present the claim to the Oil Spill Contingency Fund for the costs of actions to restore, rehabilitate, replace and/or acquire the equivalent of injured natural resources and for the costs to diminish injuries to natural resources resulting from an unauthorized discharge of oil pursuant to this Subsection.

3. Oil Spill Contingency Fund Liability and Limitation

a. The Oil Spill Contingency Fund is liable when:

i. the federal fund denies the claim; or

ii. the amount of the claim paid by the federal fund

is not sufficient to restore, rehabilitate, replace and/or acquire the equivalent of the injured natural resources.

b. If Subparagraph a of this Paragraph applies, then the Oil Spill Contingency Fund shall be liable for further damages for the following:

i. restoration, rehabilitation, replacement and/or acquisition of the equivalent natural resources; and

ii. for the diminution of injuries to natural resources for a period of two years from the date the federal fund grants or denies the claim.

4. The coordinator shall diligently seek reimbursement to the Oil Spill Contingency Fund. The coordinator shall seek reimbursement from the responsible parties, the federal fund, and any other person who is liable under OSPRA for all expenditures from the Oil Spill Contingency Fund, when the Oil Spill Contingency Fund has paid a natural resource damage assessment claim. When state trustees have recovered damages from the Oil Spill Contingency Fund, the coordinator

shall be subrogated to all rights or causes of action of the trustees.

E. The trustees shall present the assessment claim to the responsible party via hand delivery or United States Postal Service Return Receipt Requested Certified Mail.

F. Within 60 days of the presentation of an assessment claim by the trustees, the responsible party shall make full payment or initiate restoration, rehabilitation, replacement, or mitigation of damages or relevant research unless the assessment is in dispute and referred to mediation pursuant to R.S. 30:2480(G). In the case of successful mediation, payment of the assessment claim shall be made within 60 days of the completion of the mediation unless otherwise agreed.

G. The coordinator shall ensure that there is no double recovery for natural resource damages resulting from an unauthorized discharge of oil.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§131. Settlements

A. A negotiated settlement is a binding agreement in which the responsible party agrees to pay the trustees a certain amount or to perform certain restoration, rehabilitation, replacement, acquisition and/or relevant research activities. The coordinator, in consideration of the responsible party's agreement in writing, will agree to release the responsible party from further liability for damages to natural resources resulting from an unauthorized discharge of oil. Such release shall not be executed until after the payment is received by the trustees or until after the restoration, rehabilitation, replacement, acquisition and/or relevant research project is certified complete by the coordinator. The coordinator, in consultation with the trustees, may consider, compromise, and settle any filed or developing claim on such terms as are fair, reasonable, and in the public interest.

B. The final agreement between the trustees and the responsible party shall be subject to public review and comment as set forth in §135 of this Chapter (relating to public participation) and shall provide:

1. that restoration, replacement, and rehabilitation projects be planned and implemented only by persons approved by the trustees;

2. that title to real or personal property acquired as compensation for injured natural resources may vest in a public entity only where the terms and conditions for that entity's acceptance of title are met;

3. that criteria for certification of project completion are specifically enumerated; and

4. for all items necessary to ensure restoration, rehabilitation, replacement and/or acquisition of equivalent natural resources.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

§133. Mediation

A. No state trustee or responsible party may invoke the jurisdiction of any court over a disputed natural resource

damage assessment claim unless and until the assessment claim has been referred to mediation pursuant to this Section.

B. The mediation process required by R.S. 30:2480(G), shall be conducted pursuant to this Subsection.

1. The coordinator, within 10 days of receipt of the written notice that the responsible party is disputing the assessment claim, shall send written notification to all parties of the referral to mediation.

2. Each side is entitled to one mediator. If the trustees and the responsible party agree on a single person to serve as mediator, then that person shall be the only mediator.

3. Any designated mediator must have completed a minimum of 40 classroom hours of mediation training in a course conducted by an alternative dispute resolution system or other dispute resolution organization. This requirement may be waived for any mediator only with the unanimous consent of all trustees and all responsible parties. A mediator conducting a mediation under this Section shall act as an impartial third party and be subject to the standards and duties set forth.

4. Before appointment of the mediator is final, any prospective mediator shall submit complete disclosure statements for the approval of all parties, which statements shall include a r sum  of experience, together with a declaration describing all past, present, and anticipated future relationships related to the subject matter of the dispute and with all parties and their agents or representatives involved in the dispute.

5. After appointment as a mediator and thereafter throughout the mediation process, the mediator shall not acquire any ownership or any other financial interest in, nor shall be employed by or act as a consultant to, any party to the dispute or the agent or representative of any party to the dispute, and during this period shall not engage in any discussion or make any agreement with any party to the dispute or the agent or representative of any party to the dispute, regarding the acquisition of any ownership or financial interest, employment, or consulting activity after the mediation process is completed. Provided, however, that the parties to the mediation, by unanimous consent, may waive these restrictions specifically, in writing, upon full disclosure of the facts by the mediator.

C. All communications in the mediation shall be confidential and privileged.

D. The mediation shall terminate at the conclusion of the period that the parties agree to mediate, including any agreed extensions, but not less than one full business day, or upon declaration by any mediator of an impasse.

E. The mediation shall be scheduled so as to conclude within 135 days after the responsible party receives the natural resource damage assessment claim.

F. Within three days following the termination or conclusion of a mediation, the mediator(s) shall provide the coordinator with notice of the completion of the mediation process.

G. The mediation shall take place in Baton Rouge, Louisiana, unless the trustees and the responsible party agree otherwise.

H. All participants in the mediation process who represent either a state trustee or a responsible party must be vested with the authority to negotiate a mediated settlement agreement on behalf of their respective trustee or responsible party and to recommend to the trustee or responsible party approval of any mediated settlement agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

 135. Public Participation

A. The trustees shall give public notice through the use of the *Louisiana Register* and at least one newspaper of general circulation serving the impacted area.

B. Under R.S. 30:2480(I), the trustees shall provide for a public hearing and comment period of no more than 10 working days following the issuance of an assessment.

C. The trustees shall not execute any documents which relieve a responsible party from liability for damages resulting from injury to natural resources until the public comment period has expired.

D. When an equivalent resource plan is proposed for adoption by the trustees, the coordinator and the trustees may conduct, upon the request of any member of the public, a public hearing on the proposed plan.

E. The public hearing shall be convened in or near the area covered by the equivalent resource plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2451 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Oil Spill Coordinator's Office, LR 24:

Chapters 3. - 7. Reserved

Interested persons may submit written comments on the proposed rule to Marion Boulden, Oil Spill Coordinator's Office, 1885 Wooddale Boulevard, Twelfth Floor, Baton Rouge, LA 70806, until 5 p.m. on April 25, 1998.

A public hearing will be held on April 29, 1998 at 10 a.m. in the Mineral Board Hearing Room in the Department of Natural Resources Building at 625 North Fourth Street, Baton Rouge, LA 70804. Interested persons are invited to attend and submit oral comments on the proposed rules.

Roland J. Guidry
Oil Spill Coordinator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Assessment of Natural Resources Damages

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No costs or savings to state or local governmental units. Costs incurred as a result of a natural resource damage assessment are reimbursable either from the party responsible for the unauthorized oil spill or from the Federal Oil Spill Liability Fund (through the Louisiana Oil Spill Coordinator's Office and the Louisiana Oil Spill Contingency Fund). Natural resource damage assessments currently are conducted under the NOAA (Federal) rule (15 CFR 990), until the Louisiana rule is adopted.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No impact on revenue collections of state or local governmental units. The Louisiana Oil Spill Coordinator is already mandated to seek reimbursement for expenditures related to natural resource damage assessment (NRDA) by R.S. 30:2451 et seq. The proposed rule provides a framework and guidance for conducting NRDA's, preserving the rebuttable presumption asserted in the Louisiana Oil Spill Prevention and Response Act (R.S. 30:2451 et seq.).

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or benefits expected. Under the Oil Pollution Act of 1990, parties responsible for unauthorized releases of oil are already liable for the cost of assessing injury to natural resources, and for the cost of replacing, restoring, or acquiring the equivalent of those injured resources. This rule does not increase or alleviate that liability.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect. The proposed rule does not affect practices relating to hiring or competition. The proposed rule does not affect the ability of any entity to produce and market oil products.

Gus Stacy, III
Deputy Oil Spill Coordinator
9803#034

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Licensing Physicians and
Surgeons (LAC 46:XLV.301-431)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Board of Medical Examiners (board), pursuant to the authority vested in the board by the Louisiana Medical Practice Act, R.S. 37:1261-1292, intends to amend its rules governing the licensure of physicians and surgeons (LAC 46:XLV.Subpart 2, Chapter 3, §§301-431). The proposed amendments are set forth below.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians and Surgeons

Subchapter A. General Provisions

§301. Scope of Chapter

The rules of this Chapter govern the licensing of physicians and surgeons to engage in the practice of medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908

(November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified:

Applicant—a person who has applied to the board for a license or permit to engage in the practice of medicine in the state of Louisiana.

Application—a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice medicine in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Good Moral Character—as applied to an applicant, means that:

1. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the suspension or revocation of medical licensure;

2. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; and

3. the applicant has not made any representation, or failed to make a representation, or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License—the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Medical Practice Act—R.S. 37:1261-1292, as hereafter amended or supplemented.

Permit—the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana for a designated, temporary period of time, subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

Physician—a person possessing a doctor of medicine or osteopathy or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the board pursuant to §§333 to 345 of this Chapter.

State—any state of the United States, the District of Columbia and Puerto Rico.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Subchapter B. Graduates of American and Canadian Medical School and Colleges

§309. Scope of Subchapter

The rules of this Subchapter govern the licensing of physicians and osteopaths who are graduates of medical or osteopathic schools and colleges approved by the board located within any state or in Canada.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§311. Qualifications for License to Practice Medicine

A. To be eligible for a license to practice medicine, an applicant shall:

1. be at least 21 years of age;
2. be of good moral character as defined by §303(A);
3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 C.F.R.);

4. possess:
 - a. a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college approved by the board; or

- b. a doctor of osteopathy or doctor of osteopathic medicine degree issued and conferred on or after June 1, 1971 by a school or college of osteopathy or osteopathic medicine approved by the board;

5. have completed at least one year of postgraduate clinical training in a medical internship or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the Royal College of Physicians and Surgeons (RCPS) of Canada, and approved by the board; and

6. have, within the prior 10 years, in conformity with the restrictions and limitations prescribed by §381 of these rules, and subject to the exception provided for certain applicants for licensure by reciprocity provided by §353.A, taken and successfully passed:

- a. all three steps of the United States Medical Licensing Examination (USMLE) of the Federation of State Medical Boards of the United States, Inc. (FSMB); or

- b. both components of the Federation Licensing Examination (FLEX) of the FSMB; or

- c. all three parts of the examinations of the National Board of Medical Examiners (NBME); or

- d. Step 1 of the USMLE or Part I of the NBME, Step 2 of the USMLE or Part II of the NBME, and Step 3 of the USMLE or Part III of the NBME; or

- e. Component 1 of the FLEX and Step 3 of the USMLE; or

- f. Step 1 of the USMLE or Part I of the NBME and Step 2 of the USMLE or Part II of the NBME and Component 2 of the FLEX.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

C. A doctor of osteopathy who applies to the board for a license to practice medicine prior to January 1, 1999, will alternatively be deemed eligible for such licensure if the applicant satisfies the requirements for licensure provided by §311.A.1-5 and has taken and successfully passed Steps 1 and 2 of the USMLE and Part 3 of the examination of the National Board of Osteopathic Medical Examiners (NBOME).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 24:

§313. Procedural Requirements

In addition to the substantive qualifications specified in §311, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§359-365 of this Chapter and, if applicable, the procedures and requirements for examination administered by the board provided by §§371-385 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§315. Waiver of Qualifications

Upon request by an applicant, the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed to a permanent and not time delimited tenured position as full professor or associate professor (but not as a clinical professor or clinical associate professor) by and with a medical school or college within the state of Louisiana approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1271, R.S. 37:1272, R.S. 37:1274 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 24:

Subchapter C. International Medical Graduates

§321. Scope of Subchapter; Definition

A. The rules of this Subchapter specify additional qualifications, requirements, and procedures for the licensing of physicians and surgeons who are graduates of foreign medical schools.

B. As used in this Subchapter, the term *International Medical Graduate* or *IMG* means a graduate of a medical school or college not located in any state or in Canada,

recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:212 (April 1986), LR 12:528 (August 1986), LR 24:

§323. Qualifications for License

A. To be eligible for a license, an international medical graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §311 of this Chapter;

2. possess a valid Standard ECFMG Certificate issued by the Educational Commission for Foreign Medical Graduates, having successfully passed the United States Medical License Examination (USMLE) in accordance with the standards, restrictions, and limitations prescribed by §§379 and 381 of this Chapter;

3. be competent and proficient in speaking, understanding, reading, and writing the English language; and

4. have completed at least three years of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the Royal College of Physicians and Surgeons of Canada (RCPS), and approved by the board. To be approved by the board such program must be offered and taken in an institution offering not fewer than two residency or equivalent programs accredited by the ACGME or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; and the three years of such a program must be in the same specialty or, alternatively, constitute the IMG, upon completion of such three years program, as eligible for specialty board certification or for postgraduate year four (PGY-4) training.

B. In addition to the qualifications specified in the preceding Subsection, if an IMG applicant has participated in any clinical clerkship program within the United States as part of the academic training requisite to his doctor of medicine degree, such clinical clerkship program shall be subject to approval by the board as a condition of the applicant's eligibility for licensure. Such a clinical clerkship program may be approved by the board only if, at the time the applicant participated in such program, the clinical clerkship program was accredited or approved by the ACGME, the clinical clerkship was served in a hospital or other institution accredited by the Joint Commission on Accreditation of Health Care Organizations, and the applicant's supervising physician within such program held formal appointment as a professor or associate professor of the medical school or college sponsoring such program; provided, however, that notwithstanding a clinical clerkship program's satisfaction of these standards, the board may decline to approve any such program upon a finding that it was not substantially equivalent to the clinical clerkships offered by medical schools and colleges accredited by the Liaison Committee on Medical

Education of the American Medical Association and the Association of American Medical Colleges.

C. The burden of satisfying the board as to the qualifications and eligibility of the IMG applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:213 (April 1986), LR 12:528 (August 1986), LR 24:

§325. Procedural Requirements

In addition to the substantive qualifications specified in §323, to be eligible for a license, an IMG applicant shall satisfy the procedures and requirements for application provided by §§359-365 of this Chapter; if applicable, the procedures and requirements for examination administered by the board provided in §§371-391 of this Chapter; and shall provide notarized verification of his medical school transcript, reflecting the courses and hours taken and grades achieved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§327. Waiver of Qualifications

A. The waiver of qualifications provided by §315 of this Chapter shall be available to international medical graduate applicants.

B. Upon request by an applicant, the board may, in its discretion, waive the necessity of successfully passing the ECFMG examination, as otherwise required by §323.A.2, in favor of an applicant who is currently certified by a specialty board recognized by the American Board of Medical Specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Subchapter D. Board Approval of Medical Schools and Colleges

§333. Scope of Subchapter

The rules of this Subchapter provide the method and procedures by which medical schools and colleges and schools or colleges of osteopathy are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§335. Applicability of Approval

Graduation from an approved school is among the qualifications requisite to medical licensure as provided by

§311.A.4 (American and Canadian graduates), §323.A.1 (international medical graduates), and §353.A (reciprocity applicants). This qualification will be deemed to be satisfied if the school or college from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§337. Approval of American Schools and Colleges

A. A medical school or college located in any state which is currently accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges (LCME/AAMC), or their successors, shall be concurrently considered approved by the board.

B. A school or college of osteopathy located in any state which is currently accredited by the American Osteopathic Association, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§339. Approval of Canadian Schools

A medical school or college located in Canada which is currently accredited by the Royal College of Physicians and Surgeons of Canada, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§341. Recognition of Foreign Medical Schools

To be considered acceptable as evidence of basic medical education, a medical school or college not located in any state or in Canada shall, at a minimum, be recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:213 (April 1986), LR 12:528 (August 1986), LR 16:516 (June 1990), LR 24:

§345. List of Approved Schools

A listing of approved schools and colleges of medicine and osteopathy is set forth in an appendix to this Chapter and shall, from time to time, be amended and supplemented by the board consistently with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910

(November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Subchapter E. Licensure by Reciprocity

§351. Definition

Licensure by Reciprocity—the issuance of a license to practice medicine on the basis of medical licensure by another state medical licensing authority pursuant to written examination acceptable to the board as specified by §353.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 24:

§353. Qualifications for Medical Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§311 and 313 of this Chapter, save for successfully passing one of the examinations specified by §311.A.6 or C within the prior 10 years, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice medicine issued by the medical licensing authority of another state, and the applicant has, within 10 years prior to the date of application, taken and successfully passed:

1. a medical licensing examination developed and administered by the licensing authority of a state in which they hold an unrestricted license to practice medicine; or

2. a written certification or recertification examination administered and leading to certification or recertification by a specialty board recognized by the American Board of Medical Specialties.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection A of this Section, save for having taken and passed a written medical competence examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant takes and successfully passes the Special Purpose Examination (SPEX) of the Federation of State Medical Boards of the United States, Inc., as administered by and under the auspices of the board, or a written certification or recertification examination by a specialty board recognized by the American Board of Medical Specialties.

C. An osteopathic physician qualified for medical licensure under §311.A.4.b shall be eligible for medical licensure by reciprocity only if he holds a medical license issued by the medical licensing authority of another state on the basis of successful USMLE, FLEX or National Board of Medical Examiners examination and is otherwise qualified for licensure by reciprocity under this Section. For purposes of medical licensure by reciprocity, the examination of the National Board of Osteopathic Examiners does not qualify as a written medical competence examination acceptable to the Board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health

and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:149 (March 1988), LR 16:516 (June 1990), LR 24:

Subchapter F. Application

§359. Purpose and Scope

The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as a physician in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§361. Application Procedure

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. If application is made for licensing subject to successful completion of Step 3 of the United States Medical Licensing Examination (USMLE), an initial application must be received by the board not less than 120 days prior to the scheduled administration of USMLE Step 3 for which the applicant desires to sit (See Subchapter G of this Chapter respecting dates and places of examination). Applications must be completed and all supporting documentation must be received by the board not less than 90 days prior to the scheduled administration of USMLE Step 3 for which the applicant desires to sit.

C. Application for licensing by reciprocity under Subchapter E may be made at any time.

D. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor. To ensure timely filing and completion of application, forms must be requested not later than 40 days prior to the deadlines for initial application specified in the preceding Subsection.

E. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board as specified by the Secretary, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

F. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

G. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

I. Following submission of a completed application, an applicant shall, upon approval by the board office and by appointment, make a personal appearance before the board, a member of the board, or its designee, as a condition to the board's consideration of such application. At the time of such appearance, the applicant shall present the original of the documents required under this Chapter. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 24:

§363. Additional Requirements for International Medical Graduates

A. Any diploma or other document required to be submitted to the board by an IMG applicant which is not in the English language must be accompanied by a certified translation thereof into English.

B. In addition to the procedures and requirements set forth in §361, following submission of a completed application, an IMG applicant shall, upon approval by the board office and by appointment, make a personal appearance before a member of the board as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§365. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit certificate or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of medicine, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent

to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to Subsections A or B of this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor including, without limitation, the medical or osteopathic licensing authority of any state; the Federation of State Medical Boards of the United States; the American Medical Association and any component state and county or parish medical society, including the Louisiana State Medical Society and component parish societies thereof; the American Osteopathic Association; the Louisiana Osteopathic Medical Association; the Federal Drug Enforcement Agency; the Louisiana Office of Narcotics and Dangerous Drugs, Division of Licensing and Registration, Department of Health and Hospitals; federal, state, county, or parish and municipal health and law enforcement agencies and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 24:

Subchapter G. Examination

§371. Designation of Examinations

Examinations recognized by the board pursuant to R.S. 37:1272(5) as qualifying for a license to practice medicine include the United States Medical Licensing Examination (USMLE) of the Federation of State Medical Boards of the United States, Inc. (FSMB); the Federation Licensing Examination (FLEX) of the FSMB and the examinations of the National Board of Medical Examiners (NBME). Application for taking Step 3 of the USMLE is made to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§373. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §385 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the chief proctor or an assistant proctor;
2. removing from the examination room or rooms any of the examination materials;
3. reproducing or reconstructing, by copying, duplication, written notes, or electronic recording, any portion of the licensing examination;
4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;
5. communicating in any manner with any other examinee or any other person during the administration of the examination;
6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;
7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed including, without limitation, any books, notes, recording devices, or other written, printed, or recorded materials or data of any kind;
8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;
9. permitting another person to appear for and take the examination on one's behalf and in one's name; or
10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§375. Finding of Subversion

When the board has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant, in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §377 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's findings of fact, its conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made, in writing, and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§377. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct

or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for medical licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by Subsections A and B of this Section, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license or permit issued to such applicant;
2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or
3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§379. Passing Scores

A. An applicant will be deemed to have successfully passed Step 3 of the USMLE examination if he attains a score of at least 75 in such examination.

B. An applicant for licensure on the basis of FLEX examination will be deemed to have successfully passed the FLEX examination if he attained a score of at least 75 in each component of the examination, or, having taken the FLEX when a weighted average was calculated and reported thereon, had attained a FLEX weighted average of at least 75.

C. A person who is required to and does take the SPEX examination will be deemed to have successfully passed the examination if he attains a score of at least 75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 24:

§381. Restrictions, Limitations on Examinations

An applicant who has failed to attain a passing score upon taking Step 2 or Step 3 of the USMLE more than three times, or who has failed to attain a passing score upon taking part 2 or part 3 of the NBME more than three times each, or who has failed to attain a passing score upon taking any component of the FLEX more than three times, or who has failed to attain a passing score upon taking Step 2 or Step 3 of the examination of the National Board of Osteopathic Medical Examiners more than three times, shall thereafter be deemed ineligible for licensing. The limitation stated herein with respect to the

taking of the USMLE shall be applicable when such examination is taken as a component of obtaining a Standard ECFMG Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 24:

§383. Examination in or for Another State

A. Upon application to the board, an applicant for licensing under this Chapter may be permitted to take Step 3 of the USMLE in another state. The score attained by such applicant on such examination will be accepted by the board as if the applicant had taken the USMLE pursuant to application to the board provided that the examination is administered and taken consistently with the restrictions and limitations prescribed by §381 of this Subchapter.

B. A USMLE score attained by an applicant in a USMLE examination administered prior to the applicant's application to the board for licensing will be accepted by the board, provided that:

1. the applicant presents or causes to be presented to the board written certification of the date and place that the USMLE was taken and the score achieved;
2. the examination was administered and taken consistently with the rules, regulations, restrictions, and limitations prescribed by §381 of this Subchapter and by the medical licensing authority of the state for which the examination was taken; and
3. the applicant provides the board with a satisfactory written explanation of the applicant's failure to obtain licensing in the state in which the examination was taken.

C. Upon application to the board and payment of the fee prescribed in Chapter 1 of these rules, an individual applying for licensure in another state may sit for the USMLE examination administered by the board in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 24:

§385. Lost, Stolen, or Destroyed Examinations

The submission of an application for examination shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, employees, and agents, and the State of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of scores thereon by the National Board of Medical Examiners, other than by intentional act, shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and

Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 24:

§387-395. [Reserved]

Subchapter H. Restricted Licensure, Permits

§397. Restricted Licensure in General

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such restricted licenses as are, in its judgment, necessary or appropriate to its responsibilities under law. Restricted licenses shall be designated and known as permits.

B. A temporary permit entitles the holder to engage in the practice of medicine in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensing or renewal of the permit after its expiration.

C. An institutional permit entitles the holder to engage in the practice of medicine only at, in, and in association with the medical institution, clinic, or location specified by such permit or within a specified medical training program.

D. A permit issued by the board may be either temporary or institutional, or both. Other permits may be issued by the board upon such terms, conditions, limitations, or restrictions as to time, place, nature, and scope of practice, as are, in the judgment of the board, deemed necessary or appropriate to the particular circumstances of individual applicants or physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§399. Types of Permits

The types of permits which the board may consider issuing, as enumerated in the following sections of this Subchapter, shall not be construed to provide any right or entitlement whatsoever to the described permit, issuance of which shall be determined in the absolute discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

§401. 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. 37:1270 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1101 (November 1991), amended LR 24:

§403. Visiting Physician Permits

A. The board may issue a Visiting Physician temporary permit to an applicant physician or surgeon who is invited by one or more physicians licensed under this Chapter to participate or consult in diagnosis or treatment of a patient under care in a Louisiana medical institution, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;
2. within a reasonable time prior to the intended consultation or treatment, presents or causes to be presented to the board:

- a. indisputable personal identification;
- b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country; and
- c. written recommendations by two physicians licensed under this Chapter attesting to the professional qualifications of the visiting physician and assuming responsibility for his professional activities and patient care; and

3. satisfies the application and processing fee prescribed in Chapter 1 of these rules.

B. The board may issue a visiting professor temporary permit to an applicant physician or surgeon who is invited by an accredited medical school or college within the state of Louisiana approved by the board to serve on the faculty of the school or college, provided that such invited professor:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;
2. presents or causes to be presented to the board:
 - a. indisputable personal identification;
 - b. a completed application on forms furnished by the board; and

c. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical licensing authority of another state; and

3. satisfies the application and processing fee prescribed in Chapter 1 of these rules.

C. The board may issue a foreign exchange visiting professor temporary permit to an applicant physician or surgeon who is invited by an accredited medical school or college within the state of Louisiana approved by the board to participate in an exchange of faculty between the applicant's medical school or college and the Louisiana medical school or college, provided that such invited foreign exchange professor:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. an H-1 or equivalent visa;

c. a completed application on forms furnished by the board; and

d. verification satisfactory to the board that the applicant holds a current unrestricted license to engage in the practice of medicine in his domicile country; and

3. satisfies the application and processing fee prescribed in Chapter 1 of these rules.

D. A temporary permit issued under Subsection A of this Section may be restricted by the board to permit a specific act in consultation and/or to restrict consultation or treatment to a designated patient. Temporary permits issued under Subsections B and C of this Section are limited to a term of 12 months from the date of issuance.

E. A temporary permit issued under this Section shall expire, and thereby become null, void, and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 24:

§405. Short-Term Residency Permit

A. The board may issue an institutional temporary permit to an applicant who is a commissioned physician of the Armed Services of the United States for the purpose of receiving postgraduate clinical training in a medical program approved by the board and conducted by a Louisiana medical school or college, provided that such physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. possesses a current unrestricted license to practice medicine or osteopathy in, and duly issued by the medical or osteopathic licensing authority of any state, or has successfully passed either the USMLE examination, the FLEX examination, the examination of the National Board of Medical Examiners, or the NBOME examination;

3. will participate in such postdoctoral medical training program pursuant to and within the course and scope of his

orders and duties as a commissioned officer of the Armed Services;

4. within a reasonable time prior to the commencement of such training program, presents or causes to be presented to the board:

a. satisfactory documentation that he possesses the qualifications required by this Section, including a certified copy of his military orders authorizing and directing his participation in the specified medical training program; and

b. written certification by the dean of the medical school or college in which the applicant is to receive such training that the applicant has been accepted for participation in such program subject to the issuance of a permit by the board; and

5. satisfies the application and processing fees prescribed in Chapter 1 of these rules.

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program to an applicant who possesses the qualifications for licensure prescribed by §311.A.1-4 and who possesses a current unrestricted license to practice medicine in, and duly issued by, any state; provided that:

1. the preceptorship or residency program is approved by the board;

2. the applicant presents, or causes to be presented, to the board:

a. a completed application for a short-term residency permit upon the form provided by the board, together with the fee prescribed by Chapter 1 of these rules;

b. satisfactory documentation that the applicant possesses the qualifications required by this Section;

c. written certification of current unrestricted licensure by the state in which the applicant resides at the time of the application; and

d. a letter from the physician under whom he will be serving the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service; and

3. the applicant appears in person before and presents to a member of the board his original doctor of medicine degree and original certificate of state medical licensure.

C. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana or receive medical educational training other than within the postdoctoral medical educational program, preceptorship, or short-term residency program for which he is approved by the board.

D. A temporary permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1285 and R.S. 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 24:

§407. Permit Pending Examination Results

A. The board may issue an institutional temporary permit for the sole purpose of serving in an approved medical residency training program to a graduate of an American or Canadian medical school or college or school of osteopathic medicine who has taken Step 3 of the USMLE but whose scores have not yet been reported to the board or who is scheduled to take Step 3 of the USMLE at its next administration, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed the USMLE (§311.A.5), and provided further that the applicant has not previously taken and failed to achieve a passing score on the USMLE, any component thereof, or any written examination administered by the licensing authority of any state.

B. The board may issue a temporary permit to an applicant for licensure by reciprocity (§§351-353) who is required by §353.B to take the SPEX or a specialty board certification or recertification examination, but who has not yet taken such examination or whose scores have not yet been reported to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed such an examination (§353.B), and provided further that the applicant has registered for the next available administration of such an examination which shall be given not more than six months following submission of application for reciprocity licensure, and the applicant has not previously taken and failed to achieve a passing score on the SPEX or a specialty board certification or recertification examination.

C. A permit issued under this Section shall expire, and thereby become null, void and to no effect on that date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on the SPEX, or the permit holder receives notice that he has failed to achieve a passing score on a specialty board certification or recertification examination;

2. the board gives written notice to the permit holder pursuant to §383.C that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

3. the permit holder is issued a license pursuant to §413 or another type of permit as provided by §§397- 405 of this Chapter; or

4. the holder of a permit issued under Subsection B fails to appear for and take the SPEX or specialty board certification or recertification examination for which he is registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1272 and R.S. 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 24:

§411. Graduate Education Temporary Permit

A. In General. The board may issue a Graduate Education Temporary Permit (GETP) to an international medical graduate (a graduate of a medical school located outside of the United States, Canada, and Puerto Rico) for the purpose of enrolling and participating in an accredited program of postgraduate medical education (residency or fellowship) at a Louisiana medical school, college, or other accredited medical institution, upon documentation of the qualifications, satisfaction of the procedural requirements, and compliance with the conditions and limitations prescribed by this Section.

B. Qualifications for Permit. To be eligible for a GETP, an international medical graduate (IMG) shall:

1. be at least 21 years of age;

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service (INS) of the United States pursuant to the Immigration and Nationality Act and the commissioner's regulations thereunder, as evidenced by an exchange visitor (J-1), temporary worker (H-1B) or immigrant visa, or INS-issued or approved work permit or by a pending application for such visa or permit;

3. be of good moral character, as defined by §303.A.3;

4. possess a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college listed, at the time the degree was awarded, in the then-current edition of the World Directory of Medical Schools published by the World Health Organization;

5. possess the Standard Certificate of the Educational Commission for Foreign Medical Graduates (ECFMG), provided it was issued on the basis of examination taken in accordance with the standards, restrictions, and limitations prescribed by §381 of these rules; and

6. have received a written commitment from an accredited Louisiana medical school, college, or other accredited medical institution formally appointing the IMG to a postgraduate medical education training program which is conducted by such medical school, college, or other medical institution and which is fully accredited by (and not on probational status with) the American Council for Graduate Medical Education (ACGME), subject only to the board's issuance of a GETP to the applicant; and agreeing to furnish to the board the periodic reports required by Subsection F.2 and 3 of this Section.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by Subsection B.6 of this Section have been documented by an original letter, signed by the director of the postgraduate training program of the Louisiana medical school, college, or other accredited medical institution at which the IMG will train, certifying that the qualifications and conditions of such Subsection have been met.

D. Restrictions and Limitations. An IMG holding a Graduate Education Temporary Permit issued by the board shall not participate in postgraduate medical training or

engage in the practice of medicine within the state of Louisiana other than as follows.

1. During the 12 months following the effective date of an initial GETP, an IMG may participate in postgraduate medical training and engage in the practice of medicine solely at the principal location of the sponsoring medical school, college, or medical institution and shall not participate in clinical rotations to or serve at institutions at any other location.

2. An IMG who is enrolled and participating in a first postgraduate year (PGY-1) medical education training program shall not assume independent responsibility for patient care or otherwise engage in the practice of medicine.

3. An IMG shall not engage in the practice of medicine, or participate in any postgraduate medical training program within the state of Louisiana, other than within the scope of the postgraduate medical training program for which such person has been approved by the board, nor other than at the medical school, college, or other accredited medical institution from which such IMG holds his or her appointment, or at medical facilities affiliated with such program.

4. An IMG holding a GETP shall be subject to supervision by the supervising physicians designated by the medical school, college, or medical institution at which the postgraduate medical education training program is conducted.

E. Term of Permit. Each GETP issued under this Section shall expire as of the expiration of 12 months from the date on which it is issued. A GETP shall also expire, and automatically become null and void, effective on any date that the permittee's appointment to the designated postgraduate training program is terminated.

F. Renewal, Reissuance. A GETP which has expired may be renewed or reissued by the board for a successive 12-month period, provided that:

1. not later than 24 months following the effective date of an initial GETP, the permit holder has taken and successfully passed Step 3 of the United States Medical Licensing Examination (USMLE) or had previously passed the FLEX;

2. not less than five months nor more than seven months following the effective date of an initial GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that the permit holder has performed successfully and competently in such postgraduate program;

3. not less than two months prior to the annual expiration of a GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that:

a. the permit holder has performed successfully and competently in such postgraduate program;

b. the medical school, college, or other medical institution will renew the IMG's appointment for an additional year; and

c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permit holder's GETP pursuant to Subsection H hereof.

G. Causes for Refusal to Issue or Renew. Notwithstanding an IMG's eligibility for a GETP, or for renewal of a GETP, under the standards and criteria set forth in this Section, the board may nonetheless deny issuance or renewal of a GETP for any of the causes for which it may deny licensure under R.S. 37:1285(A) or for which it may revoke a GETP pursuant to Subsection H of this Section.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a GETP may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285(A);

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a GETP as prescribed by this Section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the GETP or otherwise violated any of the conditions, restrictions, and limitations prescribed by Subsection D hereof.

I. Effect of Revocation. An IMG whose GETP has been revoked by the board pursuant to Subsection H of this Section shall not thereafter be eligible for a GETP or license to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), and 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 24:

Subchapter I. License Issuance, Termination, Renewal, Reinstatement

§413. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated by §§311, 313, 323-325 or 353 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of medicine in the state of Louisiana.

B. A license issued under §311 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's USMLE scores to the board. A license issued under any other section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:

§415. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and hereby become null,

void, and to no effect, on the last day of the year in which such license or permit was issued.

B. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

C. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:

§417. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter on or before the first day of December of each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:

§418. Reduced Renewal Fees for Certain Physicians

A. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. attained the age of 70 years;
2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee and consenting to revocation of any license renewed pursuant to this Section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this Section, continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense or administer controlled substances.

B. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine or osteopathy issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. ceased to engage in the practice of medicine in any form in this state as a consequence of physical or mental disability;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee, including independent physician verification of the applicant's physical or mental disability, and consenting to revocation of any license renewed pursuant to this Section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this Section, engaged or sought to engage in any manner in the practice of medicine in this state or continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense or administer controlled substances.

C. A physician whose medical license is renewed pursuant to this Section shall not thereafter engage or seek to engage in the active practice of medicine in this state or to prescribe, dispense, or administer controlled substances or other prescription medications except upon prior application to and approval by the board, which, in its discretion, as a condition to reinstatement of full licensure, may require that:

1. that the physician take and successfully pass all or a designated portion of the USMLE or SPEX examination; and/or

2. that the physician provide medical documentation satisfactory to the board that the physician is then physically and mentally capable of practicing medicine with reasonable skill and safety to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1280 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), amended LR 24:

§419. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration. A physician whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original or reciprocal license pursuant to the applicable rules of this Chapter.

B. With respect to an application for reinstatement made more than one year from the date on which the license expired, as a condition of reinstatement, the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;

2. that the applicant possess a current, unrestricted license issued by another state; and/or

3. if the applicant does not, at the time of the application, possess a current, unrestricted license issued by

another state, that the applicant take and successfully pass all or a designated portion of the USMLE or SPEX examination.

C. An applicant whose medical license has been revoked, suspended, or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fee plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 14:86 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 24:

Subchapter J. Postgraduate Education Registration

§425. Necessity for Registration

A. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in any program of postgraduate medical education, unless he is duly registered with the board pursuant to this Subchapter.

B. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in any postgraduate medical educational program, howsoever designated or whenever taken, which permits or requires such person to exercise independent medical judgment, assume independent responsibility for patient care, or otherwise to engage in the practice of medicine.

C. Upon a finding that a person or registrant has violated the proscriptions of this Section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;

2. consider and declare such person or registrant ineligible for a medical license or permit under this Chapter; or

3. cause institution of judicial proceedings against such person for injunctive relief, costs, and attorneys fees, pursuant to R.S. 37:1286.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 24:

§427. Qualifications for Registration

A. To be eligible for registration under this Subchapter, an applicant shall possess all of the substantive qualifications for licensure specified by §311.A.1-4 and shall be a graduate of an approved American or Canadian medical school or college or school of osteopathic medicine.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 24:

§429. Procedural Requirements

A. In addition to the substantive qualifications specified in §427, to be eligible for registration under this Subchapter, an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the postgraduate program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance, by appointment, before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §427; provided, however, that an applicant who has completed his medical or osteopathic education but who does not yet possess a degree as required by §311.A.4 may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved medical school or college or of an approved school or college of osteopathy, certifying that the applicant has completed his academic medical or osteopathic education at such school or college, that the applicant is a candidate for the degree of doctor of medicine or doctor of osteopathy at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay the applicable registration fee, as provided in Chapter 1 of these rules.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and

Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 24:

§431. Issuance and Term of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§429-431 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a program of postgraduate medical education in the state of Louisiana.

B. Registration issued under this Subchapter shall be effective on and as of the date on which an applicant's postgraduate medical education program is to commence.

C. A certificate of registration shall expire, and become null and void, on the earliest of the following dates:

1. one year (12 months) from the effective date of registration, if the registrant has not, prior to such date:

a. submitted documentation to the board of the registrant's successful passage of Steps 1 and 2 of the USMLE in conformity with the requirements and limitations of §§379 and 381 of this Chapter;

b. and the registrant's qualification for and appointment to the postgraduate year 2 (PGY-2) level of the registrant's postgraduate medical education program; and

c. paid the applicable registration renewal fee, as provided in Chapter 1 of these rules;

2. the date of the administration of Step 3 of the next USMLE preceding the expiration of 24 months from the effective date of registration, if the registrant has failed to sit for such administration;

3. the date on which the National Board of Medical Examiners reports to the board that the registrant has failed to attain a passing score on the next USMLE examination preceding the expiration of 24 months from the effective date of the registration; or

4. the date on which the registrant is issued a license to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:

Inquiries concerning the proposed amendments may be directed, in writing, to Delmar Rorison, Executive Director, 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 amendments, in writing, to the Board of Medical Examiners, Box 30250, New Orleans, LA 70190-0250 (630 Camp Street, New Orleans, LA 70130). Written comments must be submitted to and received by the board within 60 days of 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: Licensing Physicians and Surgeons

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendments will result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is not anticipated that the proposed rule amendments will have any material effect on the revenue collections of the Board of Medical Examiners or of any state or local governmental unit.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rule amendments will result in any costs and/or economic benefits to directly affected persons, including applicants for medical licensure, licensed physicians, or governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendments are not anticipated to have any impact on competition and employment in either the public or private sector.

Delmar Rorison
Executive Director
9803#048

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Physician Assistants; Licensing and Practice
(LAC 46:XLV.1501-1519; 4501-4515)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270(B)(6) and 37:1360.23(D) and (F), and in accordance with applicable provisions of the Administrative Procedure Act, proposes to amend its rules governing the licensure and practice of physician assistants, LAC 46:XLV, Subpart 2, Chapter 15, §§1501-1519, Subpart 3, Chapter 45, §§4501-4515, to conform such rules to the statutory law providing for the licensing and regulation of practice of physician assistants, as amended by Acts 1997, Number 316, R.S. 37:1360.21-1360.38. The proposed amendments are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLV. Medical Profession
Subpart 2. Licensing and Certification
Chapter 15. Physician Assistants
§1501. Scope of Chapter**

These rules govern the licensure of physician assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 24:

§1503. Definitions

As used in this Chapter, the following terms shall have the meanings specified:

Advisory Committee—the Louisiana State Board of Medical Examiners Physician Assistants Advisory Committee constituted under R.S. 37:1270.1.

Applicant—a person on whose behalf the board has received an application for licensure as a physician assistant.

Approved Application—all of the information, representations, terms, restrictions, and documents contained in or submitted with an application upon which the board has issued a physician assistant license.

Board—the Louisiana State Board of Medical Examiners.

Locum Tenens Physician—a qualified physician who will assume the obligations and responsibilities of the supervising physician when the supervising physician is absent or unavailable as a result of illness, medical emergency or other causes.

Physician—a person possessing a current license to practice medicine in the state of Louisiana.

Physician Assistant—a person possessing a current physician assistant license issued under this Chapter.

Physician Assistant—Certified (PA-C)—a physician assistant who is currently certified by the National Commission on Certification of Physicians' Assistants (NCCPA) or its successors.

Supervising Group of Physicians or Supervising Group—a professional partnership, professional corporation, or other professional, physician-owned entity approved by and registered with the board under this Chapter to supervise one or more physician assistants.

Supervising Physician—a person approved by and registered with the board under this Chapter to supervise a physician assistant.

Supervision—responsible direction and control, with the supervising physician assuming legal liability for the services rendered by the physician assistant in the course and scope of the physician assistant's employment. Such supervision shall not be construed in every case to require the physical presence of the supervising physician. However, the supervising physician and physician assistant must have the capability to be in contact with each other by either telephone or other telecommunications device. Supervision shall exist when the supervising physician responsible for the patients gives informed concurrence of the actions of the physician assistant, whether given prior to or after the action, and then a medical treatment plan or action is made in accordance with written clinical practice guidelines or protocols set forth by the supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 24:

§1505. Necessity for License

A. No person may act as or undertake to perform the functions of a physician assistant unless he has in his personal possession a current physician assistant license issued to him under this Chapter.

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. any person employed by, and acting under the supervision and direction of, any commissioned physician or surgeon of the United States Armed Services, or Public Health Services, practicing in the discharge of his official duties;

2. practitioners of allied health fields, duly licensed, certified, or registered under other laws of this state, when practicing within the scope of such license, certificate or registration;

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Committee on Allied Health Education and Accreditation or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 24:

§1507. Qualifications for Licensure

A. To be eligible for licensure under this Chapter, an applicant shall:

1. be at least 20 years of age;

2. be of good moral character;

3. demonstrate his competence to provide patient services under the supervision and direction of a supervising physician by:

a. presenting to the board a valid diploma certifying that the applicant is a graduate of a physician assistant training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA), or its successors, and by presenting or causing to be presented to the board satisfactory evidence that the applicant has successfully passed the national certification examination administered by the National Commission on Certification of Physicians' Assistants (NCCPA) or its successors, together with satisfactory documentation of current certification; or

b. presenting to the board a valid, current physician assistant license, certificate or permit issued by any other state of the United States; provided, however, that the board is satisfied that the certificate, license or permit presented was issued upon qualifications and other requirements substantially equivalent to the qualifications and other requirements set forth in this Chapter;

4. certify that he is mentally and physically able to engage in practice as a physician assistant;

5. not, as of the date of application or the date on which it is considered by the board, be subject to discipline, revocation, suspension, or probation of certification or licensure in any jurisdiction for cause resulting from the applicant's practice as a physician assistant; provided, however, that this qualification may be waived by the board in its sole discretion.

B. The burden of satisfying the board as to the eligibility of the applicant for licensure shall be upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 24:

§1508. Qualifications for Registration as Supervising Physician

A. To be eligible for approval and registration under this Chapter, a proposed supervising physician shall, as of the date of the application, hold an unrestricted license to practice medicine in the state of Louisiana; and

1. have been in the active practice of medicine for not less than five years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree; or

2. have been in active practice for at least two years following the completion of any postgraduate medical residency program; or

3. hold current certification by a member board of the American Board of Medical Specialties or hold current status as a Candidate for Certification, as defined by such boards, having completed all required education and credentials approval and having passed the qualifying examination therefor, with such status being confirmed in writing by an American specialty board.

B. The burden of satisfying the board as to the eligibility of the proposed supervising physician for approval and registration shall be upon the proposed supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), LR 24:

§1509. Application for Licensure; Procedure

A. Application for licensure as a physician assistant must be made upon forms supplied by the board and must include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1507 of this Chapter;

2. an affidavit, notarized and properly executed by the applicant, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

3. payment of a fee of \$155 of which the sum of \$20 will represent a nonrefundable processing fee; and

4. such other information and documentation as the board may require.

B. A personal interview of a physician assistant applicant by a member of the board or its designee may be required by the board, as a condition of licensure, with respect to:

1. an initial application for licensure where discrepancies exist in the application; or

2. an applicant who has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:202 (March 1996), LR 24:

§1510. Application for Registration as Supervising Physician; Procedure

A. Application for approval and registration as a supervising physician must be made upon forms supplied by the board and must include:

1. a detailed description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the geographic and demographic characteristics of his medical practice; the address or location of the primary office where the physician assistant is to practice and be supervised;

2. a description of the way in which the physician assistant will be utilized as a physician assistant, and the methods to be used by the proposed supervising physician to insure responsible direction and control of the activities of the physician assistant;

3. a statement that the physician will exercise supervision over the physician assistant in accordance with any rules and regulations adopted by the board and that the physician will retain professional and legal responsibility for the care rendered by the physician assistant;

4. an affidavit, notarized and properly executed by the proposed supervising physician, certifying the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

5. payment of a one-time fee of \$75, of which the sum of \$20 will represent a nonrefundable processing fee; and

6. such other information and documentation as the board may require.

B. A physician seeking to supervise a physician assistant shall be required to appear before the board upon his notification to the board of his intention to supervise a physician assistant:

1. upon a first notification to the board of the physician's intention to supervise a physician's assistant if the board finds discrepancies in the physician's application; or

2. if the physician has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. All documents required to be submitted to the board must be the original or certified copy thereof. For good cause shown, the board may waive or modify this requirement.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

E. Any physician seeking to supervise a physician assistant as either primary supervising physician or as locum tenens must register with the board as provided herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), LR 24:

§1511. Physician Assistant Advisory Committee

A. The advisory committee shall be authorized to advise the board on all matters specifically dealing with licensing or disciplining of physician assistants or the drafting and promulgating of regulations relating to physician assistants. The advisory committee shall also review and make recommendations to the board on applications for licensure as physician assistants. The board shall not act on any matter relating to physician assistants without first consulting with the advisory committee.

B. The advisory committee shall meet not less than twice each calendar year, or more frequently as may be deemed necessary or appropriate by its chairman or a majority of the members of the advisory committee, which meetings shall be at the call of and at such time and place as may be noticed by its chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 24:

§1513. Issuance of License; Working Permit

A. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall license the applicant as a physician assistant.

B. The board may grant a working permit (temporary license), valid and effective for one year but renewable for one additional year, to an applicant who otherwise meets the qualifications for licensure, except that the applicant has not yet taken or is awaiting the results of the national certification examination.

C. A working permit shall expire and become null and void on the date on which:

1. the results of the applicant's national certifying

examination are available, and the applicant has failed to pass such examination; or

2. the board takes final action on the applicant's application for licensure.

D. Every license or permit issued under this Chapter is expressly subject to the terms, restrictions and limitations set forth in the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 24:

§1514. Issuance of Approval as Supervising Physician

A. If all the qualifications, requirements and procedures of §§1508 and 1510 are met to the satisfaction of the board, the board shall approve and register a physician as a supervising physician.

B. Although a physician must notify the board each time the physician intends to undertake the supervision of a physician assistant, registration with the board is only required once. Notification of supervision of a new physician assistant by a registered supervising physician shall be deemed given to the board upon the physician assistant's filing with the board a notice of intent to practice in accordance with §1517 of this Chapter. The board shall maintain a list of physicians who are registered to supervise physician assistants. Each registered physician is responsible for updating the board should any of the information required and submitted in accordance with §§1508 and 1510 change after the physician has become registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:203 (March 1996), amended LR 24:

§1515. Consent to Examination; Waiver of Privileges; Examining Committee of Physicians

A. An applicant or physician assistant shall, by applying for or accepting licensure under this Chapter, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board and to waive all objections as to the disclosure or admissibility of findings, reports, or recommendations pertaining thereto on the grounds of privileged communication or other personal privileges provided by law.

B. The board may appoint or designate an examining committee of physicians, possessing appropriate qualifications, to conduct physical and mental examinations of a physician assistant, to otherwise inquire into the physician assistant's fitness and ability to provide services with reasonable skill and safety to patients, and to submit advisory reports and recommendations to the board, when the board has reasonable cause to believe that the fitness and ability of such physician assistant are affected by mental illness or deficiency or physical illness including, but not limited to, deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:

§1517. Expiration of Licensure; Renewals; Modification; Notification of Intent to Practice

A. Initial licensure shall expire as of the last day of the year in which such license was issued.

B. Every license issued under this Chapter shall be renewed annually on or before January 1 by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification or recertification by the National Commission on Certification of Physicians' Assistants. Each application for renewal shall be accompanied by a fee of \$100.

C. A physician assistant licensed in this state, prior to initiating practice, shall submit, on forms approved by the board, notification of such intent to practice. Such notification shall include:

1. the name, business address, and telephone number of the supervising physician or supervising group of physicians and any designated locum tenens; and

2. the name, business address, and telephone number of the physician assistant.

D. Licensure shall not terminate upon termination of a relationship between a physician assistant and a supervising physician provided that:

1. the physician assistant ceases to practice as a physician assistant until such time as he enters into a supervision relationship with a supervising physician or supervising group of physicians registered with the board; and

2. the physician assistant notifies the board of any changes in or additions to his supervising physicians within 15 days of the date of such change or addition.

E. The board may, in its discretion, at the time of and upon application for renewal of licensure, require a review of the current accuracy of the information provided in the approved application and of the physician assistant's performance thereunder and may modify or restrict any licensure in accordance with the findings of such review.

F. A physician assistant may elect to have his license placed on inactive status by the board by giving notice to the board, in writing, on forms prescribed by the board, of his election of inactive status. A physician assistant whose license is on inactive status shall be excused from payment of renewal fees and shall not practice as a physician assistant in the state of Louisiana. Any licensee who engages in practice while his or her license is on inactive status shall be deemed to be engaged in practice without a license and shall be subject to administrative sanction under R.S. 37:1360.34 or to judicial injunction pursuant to R.S. 37:1360.37. A physician assistant on inactive status may be reinstated to active status upon payment of the current renewal fees and satisfaction of other applicable qualifications for renewal prescribed by §1517.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) (6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4501. Supervision by Supervising Group of Physicians

A. A physician assistant may be supervised by a supervising group of physicians provided that, a member, partner or employee of the supervising group is designated as the supervising physician, and such supervising physician meets and satisfies all of the qualifications, procedures and other requirements of this Chapter to the same extent as if the physician assistant were supervised individually by the supervising physician.

B. With respect to any physician assistant supervised by a supervising group of physicians, all duties, obligations, and responsibilities imposed by statute or by the rules of this Chapter on the supervising physician shall be equally and independently assumed and borne by the designated supervising physician and the supervising group.

C. When a physician assistant is supervised by a supervising group of physicians, the supervising physician may designate any other member, partner or employee of the supervising group as locum tenens physician, provided that such designee meets the qualifications of LAC 46:XLV.1508 and 1510 and the designation otherwise complies with said Sections. Any physician serving as a locum tenens physician must be identified in the physician assistant's notice of intent to practice as provided in §1517.

D. A physician may obtain approval from the board to be the primary supervising physician for up to two physician assistants; however, nothing shall prohibit a qualified supervising physician from acting as supervising physician on a locum tenens basis for any physician assistants in addition to the two physician assistants for whom he is the primary supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 24:

§4503. Compensation

A. A physician assistant may receive compensation, salary or wages only from his or her employer and may neither render a statement for service directly to any patient nor receive any payment, compensation or fee for services directly from any patient.

B. Nothing in this Section shall prohibit charges from being submitted to any governmental or private payor for services rendered by a physician assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 24:

§4505. Services Performed by Physician Assistants

A. The practice of a physician assistant shall include the performance of medical services that are delegated by the supervising physician and are within the scope of the physician assistant's education, training, and licensure.

B. Medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardio-pulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; and signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group. This list is illustrative only, and by no means constitutes the limits or parameters of the physician assistant's practice.

C. A physician assistant who performs the suturing of lacerations, may undertake to do so with respect to a particular patient, only when specifically delegated to do so by the supervising physician.

D. A physician assistant may administer medication to a patient, or transmit orally, electronically, or in writing on a patient's record, a prescription from his or her supervising physician to a person who may lawfully furnish such medication or medical device. The supervising physician's prescription, transmitted by the physician assistant, for any patient cared for by the physician assistant, shall be based on a patient-specific order by the supervising physician. At the direction and under the supervision of the supervising physician, a physician assistant may hand to a patient of the supervising physician a properly labeled prescription drug prepackaged by a physician, a manufacturer or a pharmacist. In any case, the medical record of any patient cared for by the physician assistant for whom the physician's prescription has been transmitted or carried out shall be reviewed, countersigned and dated by a supervising physician within 72 hours, or as otherwise required by law.

E. A physician assistant shall not:

1. practice without supervision, as defined by §1503, except in life-threatening emergencies;

2. issue prescriptions for any medication and/or complete and issue prescription blanks previously signed by any physician;

3. order for administration or administer any medication to any patient except pursuant to the specific order or direction of his or her supervising physician;

4. act as or engage in the functions of a physician assistant other than on the direction and under the direction and supervision of his supervising physician at the location or locations specified in physician assistant's notice of practice location to the board, except in the following situations:

a. if the physician assistant is acting as assistant in life-threatening emergencies and in situations such as man-made and natural disaster or a physician emergency relief efforts;

b. if the physician assistant is volunteering his services to a non-profit charitable organization, receives no compensation for such services, and is performing such services under the supervision and in the presence of a licensed physician;

5. act as or engage in the functions of a physician assistant when the supervising physician and the physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication device; or

6. identify himself, or permit any other person to identify him, as "doctor" or render any service to a patient unless the physician assistant has clearly identified himself as a physician assistant by any method reasonably calculated to advise the patient that the physician assistant is not a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 24:

§4507. Authority and Limitations of Supervising Physician

A. The supervising physician is responsible for the responsible supervision, control, and direction of the physician assistant and retains responsibility to the patient for the competence and performance of the physician assistant.

B. A supervising physician may not supervise more than two physician assistants at the same time; provided, however, that a physician may be approved to act as a supervising physician on a locum tenens basis for physician assistants in addition to the physician assistants for whom he or she is the primary supervising physician, provided that such physician shall not act as supervising physician for more than four physician assistants at any one time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:205 (March 1996), LR 24:

§4509. Designation of Locum Tenens

A. Notwithstanding other provisions of this Chapter, the board may permit a supervising physician to designate as locum tenens a physician who will assume the obligations and responsibilities of the supervising physician when the supervising physician is absent or unavailable as a result of illness, medical emergency or other causes.

B. To be eligible for designation as locum tenens, a physician shall:

1. meet the qualifications of LAC 46:XLV.1508;
2. actively practice in the same specialty as the supervising physician or in a reasonably related field of medicine; and
3. be registered as a supervising physician as provided in LAC 46:XLV.1510 and 1514.

C. Designation of a locum tenens must include:

1. a description of the locum tenens' professional background and specialty, if any;
2. the address of all office locations used by the locum tenens;
3. a detailed description of the specific circumstances under which the locum tenens will act for and in place of the supervising physician and the manner in which the locum tenens will supervise, direct and control the physician assistant; and
4. a certificate, signed by the designated locum tenens, acknowledging that he has read and understands the rules of this Chapter and that he will assume the duties, obligations and responsibilities of the supervising physician under the circumstances specified in the application.

D. The board may, in its discretion, refuse to approve the use of a locum tenens, or it may restrict or otherwise modify the specified circumstances under which the locum tenens would be authorized to act for and in place of the supervising physician.

E. A physician assistant shall not, while acting under the direction and supervision of an approved locum tenens designated by the supervising physician, attend or otherwise provide any services for or with respect to any patient other than a patient of the supervising physician or supervising group.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:205 (March 1996) LR 24:

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1. within 15 days notify the board, in writing, of:
 - a. the termination of the physician assistant's supervision relationship with a supervising physician or supervising group of physicians;
 - b. the retirement or withdrawal from active practice by the supervising physician; and
 - c. any other change in the employment, functions, activities or services of the physician assistant or the manner or location of their performance;
2. comply with reasonable requests by the board for

personal appearances and/or information relative to the functions, activities and performance of the physician assistant and supervising physician;

3. insure that each individual to whom the physician assistant provides patient services is expressly advised and understands that the physician assistant is not a licensed physician;

4. insure that, with respect to each direct patient encounter, all activities, functions, services and treatment measures of the physician assistant are properly documented in written form by the physician assistant and that each such entry is countersigned by the supervising physician within 24 hours with respect to inpatients in an acute care setting and patients in a hospital emergency department; within 48 hours with respect to patients of nursing homes and other sub-acute settings and within 72 hours in all other cases.

B. The physician assistant and supervising physician shall bear equal and mutual responsibility for producing the following documentation upon an official inspection conducted by a duly authorized representative of the board:

1. a copy of the physician assistant's notice of intent to practice, listing all physicians authorized and designated to supervise the physician assistant; and
2. any written practice agreement defining the scope of practice of the physician assistant including:
 - a. any clinical practice guidelines prescribed by the supervising physician;
 - b. the medical procedures which the supervising physician has authorized the physician assistant to perform;
 - c. any group practice arrangements; and
 - d. a list of the locations where the physician assistant may be working at any given time;
3. any written practice agreement shall be annually reviewed, updated as appropriate, and signed by the physician assistant and supervising physician.

C. The physician assistant and the supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 24:

§4513. Causes for Nonissuance, Suspension, Revocation of Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any license issued under this Chapter, or issue a private or public reprimand, for the following causes:

1. conviction of or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the United States or of any state;
2. conviction of or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with practice as a physician assistant;
3. fraud, deceit, or perjury in obtaining any license or permit issued under this Chapter;

4. providing false testimony before the board;
5. habitual or recurring drunkenness;
6. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;
7. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in Louisiana Revised Statutes, Title 37, Section 1285;
8. efforts to deceive or defraud the public;
9. incompetency;
10. immoral conduct in exercising the privileges provided for by licensure under this Chapter;
11. persistent violation of federal or state laws relative to control of social diseases;
12. interdiction or commitment by due process of law;
13. inability to perform or function as a physician assistant with reasonable skill or safety to patients because of medical illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or excessive use or abuse of drugs, including alcohol;
14. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician assistant's physical and mental fitness and ability to provide patient services with reasonable skill and safety;
15. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to act as a physician assistant in that state, or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts the functions, activities or services of the physician assistant in that state; or
16. violation of any provision of this Chapter, or of rules or regulations of the board or statute pertaining to physician assistants.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any license suspended or revoked hereunder, require the physician assistant and/or the supervising physician group to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of \$5,000.

C. Any license suspended, revoked or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1107 (November 1991), LR 22:206 (March 1996), LR 24:

Inquiries concerning the proposed rule amendments may be directed in writing to Delmar Rorison, Executive Director, Board of Medical Examiners, at the address set forth below.

Interested persons may submit data, views, arguments, information or comments on the proposed rule amendments, in writing to the Board of Medical Examiners, Box 30250, New Orleans, LA, 70190-0250 (630 Camp Street, New Orleans,

LA, 70130). Written comments must be submitted to and received by the board within 60 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: Physician Assistants; Licensing and Practice**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule amendments will result in costs or savings to the Board of Medical Examiners or any state or local governmental unit.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the proposed rule amendments will have any material effect on the revenue collections of the Board of Medical Examiners or of any state or local governmental unit.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is not anticipated that the proposed rule amendments will result in any costs and/or material economic benefits to directly affected persons, including applicants for physician assistant licensure, supervising physicians, or governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule amendments are not anticipated to have any material impact on competition and employment in either the public or private sector. In implementing statutory amendments permitting employment of physician assistants by health care provider entities other than physician-owned groups, the rule amendments may, to an extent that is not quantifiable, serve to increase competition in the market for employment of physician assistants.

Delmar Rorison
Executive Director
9803#050

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Non-notarized Complaints, Mobile
Clinic, and Preceptorship Program
(LAC 46:LXXXV.106, 700, 711 and 1103)

The Board of Veterinary Medicine proposes to amend LAC 46:LXXXV.106, 700, 711, and 1103 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Veterinary Practice Act, R.S. 37:1518 et seq.

The proposed amendment to §106 provides a method by

which the board may handle non-notarized information it receives concerning possible violations of the Veterinary Practice Act and rules promulgated thereto. Revised Statute 37:1518(A)(4) empowers the board to conduct investigations for the purpose of discovering violations of the Act; this rule provides more detail on how such investigations may proceed when based on non-notarized information, as opposed to a notarized complaint that is called for under §101(E). The proposed amendments to §§700 and 711 define and establish minimum standards for a mobile clinic, and a mobile practice vehicle is differentiated from a mobile clinic. The proposed revision to §1103 states, in effect, that the change from a five-week preceptorship program to an eight-week preceptorship program shall not apply to students graduating in calendar years prior to 2000.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 1. Operations of the Board of Veterinary Medicine

§106. Complaint Resolution and Disciplinary Procedures

A. ...

B. Appointing a Complaint Review Committee

1. - 2. ...

3. The complaint review committee chair may initiate a preliminary investigation based on non-notarized information received by the board office when, in the chair's judgment, such an investigation may be necessary to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine or against the illegal practice of veterinary medicine. The complaint review committee chair may consult with the other complaint review committee members at any point after the non-notarized information is received. If the preliminary investigation reveals that there is a basis for the allegations, then a formal written complaint shall be filed and the complaint review committee shall proceed with its normal investigation procedures as described in this Section. Without the filing of a formal written complaint, no disciplinary action shall be taken.

4. The appointed members of the complaint review committee shall remain anonymous.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:345 (March 1993), amended LR 23:967 (August 1997), LR 24:

Chapter 7. Veterinary Practice

§700. Definitions

* * *

Mobile Clinic—a vehicle with special medical or surgical facilities, including examination and treatment areas and/or surgical facilities.

Mobile Practice Vehicle—a vehicle used by a veterinarian in a house call or farm call type veterinary practice where the animal is not actually taken into the vehicle.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:

§711. Definitions for Classification of Practice Facilities

A. - B. ...

C. A *mobile clinic* as defined in §700 shall have a permanent base of operations with a published address, telephone facilities for making appointments or responding to emergencies, and the following.

1. A veterinarian operating or working in a mobile clinic must have a written agreement with a local veterinary hospital or clinic to provide hospitalization, surgery, or radiology if these services are not available at the mobile clinic. *Local* means within a 30-mile radius.

2. A veterinarian operating or working in a mobile clinic must have a written agreement with a local veterinary hospital or clinic to provide emergency services and must display a notice to that effect in public view. The phone number and address for this emergency service provider must be provided to each patron of the mobile clinic. *Local* means within a 30-mile radius.

3. A veterinarian operating or working in a mobile clinic must remain on site until all patients are discharged to their owners and must maintain autonomy for all medical decisions made.

4. A physical examination and history must be taken for each patient at a mobile clinic and the medical records for such patients must meet the requirements for recordkeeping in §701. These records must be maintained by the veterinarian for five years and must remain accessible to the client for that period.

5. The veterinarian operating or working in a mobile clinic is responsible for consultation with clients and referral of patients when disease is detected or suspected. The veterinarian is also responsible for information and recommendations given to the client by the mobile clinic's staff.

6. The veterinarian operating or working in a mobile clinic must have his current Louisiana veterinary license on display to the clients.

7. Operation of the veterinary medical mobile clinic requires the following:

a. a clean, safe location;

b. the mobile clinic must meet local sanitation regulations;

c. lined waste receptacles;

d. fresh, running water for cleaning and first aid;

e. examination areas with good lighting and smooth, easily disinfected surfaces;

f. examination and surgery preparation areas separate from surgery area;

g. drugs must be kept according to federal, state, and local laws. If controlled drugs are kept on the premises, they must be kept in a locking, secure cabinet for storage and an accurate controlled substance log must be maintained and available for inspection;

- h. all equipment must be kept clean and in working order;
- i. the mobile clinic must have the capability to deal with sudden emergencies and should have oxygen, resuscitation drugs and equipment, treatment for "shock," and fluid administration materials readily available;
- j. the mobile clinic must have all biomedical waste properly disposed of and must have documentation to prove that fact on the premises for inspection.

D.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1331 (October 1993), amended LR 23:969 (August 1997), LR 24:

Chapter 11. Preceptorship Program
§1103. Definitions

* * *

Preceptorship Program—a preceptorship program approved by the Louisiana Board of Veterinary Medicine which involves no less than five nor more than 10 weeks.

1. - 4. ...

5. Changes in the program that are effective on or after May 1, 1998, shall not apply to students graduating in calendar years prior to 2000.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 16:232 (March 1990), amended LR 19:208 (February 1993), LR 23:968 (August 1997), LR 24:

Interested parties may submit written comments to Charles B. Mann, Executive Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801. Comments will be accepted through the close of business on April 28, 1998.

If it becomes necessary to convene a public hearing in accordance with the Administrative Procedure Act, the hearing will be held on April 28, 1998, at 9 a.m. at the office of the Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Charles B. Mann
 Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Non-notarized Complaints, Mobile Clinic
and Preceptorship Program

- 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, except for those associated with publishing the amendments (estimated \$340). The veterinary profession will be informed of this proposed rule change via the board's regular newsletter, which is already a budgeted cost of the board.

- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
 There will be no effect on revenue collections of state or local governmental units. There will be no revenue impact as no increase in fees will result from these amendments.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
 There are no anticipated costs and/or economic benefits to directly affected persons or nongovernmental groups; however, costs may be incurred by persons who would be expected to comply with the changes relating to mobile clinics (§§700 and 711). Such costs would be expected to be minimal.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
 There is no anticipated effect on employment and competition.

Charles B. Mann
 Executive Director
 9803#012

Richard W. England
 Assistant to the
 Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance
Office of the Commissioner

Regulation 64—Vehicle Mechanical
Breakdown Insurers Cancellation Provisions

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and as authorized by R.S. 22:3 and R.S. 22:1811, notice is hereby given that the commissioner of Insurance intends to adopt the following regulation to implement standards for the cancellation of Vehicle Mechanical Breakdown (VMB) contracts. The purpose of the regulation is to protect the interests of policyholders and to promote consumer awareness.

Proposed Regulation 64
Cancellation Provisions for Vehicle
Mechanical Breakdown Insurers

Section 1. Purpose

The purpose of this regulation is to implement standard cancellation requirements in all vehicle mechanical breakdown contracts, and to ensure that all such contracts (hereafter sometimes referred to as "policies") issued, delivered or used in Louisiana are drafted in a more consistent and streamlined manner.

Section 2. Authority

This regulation is promulgated under the authority granted the commissioner by R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

Section 3. Applicability and Scope

This regulation shall apply to all vehicle mechanical breakdown contracts that are in force and to insurers issuing, for delivery or use, vehicle mechanical breakdown contracts in Louisiana.

Section 4. Cancellation Standards

The following standards shall govern the requirements for the cancellation provisions of vehicle mechanical breakdown contracts.

1. All Mechanical Breakdown Insurance contracts having terms of greater than six months shall be cancelable and refundable upon request of the insured.

2. The refund method to be used shall be the sum of the digits (Rule of 78s) or a refund method that will be more favorable to the insured.

3. The return factor is determined by the number of unused months or the number of unused miles, and shall be based on the full premium (including commissions) paid by the insured.

a. The number of months shall mean the number of months from the effective date of the policy until the expiration date of the policy.

b. The number of miles shall mean the sum of the number of miles on the odometer at the time of purchase and the policy mileage limit.

4. A cancellation fee, not to exceed \$50, may be charged, provided such fee is disclosed to the purchaser at the time of policy purchase.

5. The method of refund and any cancellation fee, shall be fully disclosed to the insured at or before the time of policy purchase by having such information printed in the policy form and the policy application, which shall be agreed to in writing, by the insured.

6. In calculating any refund requested by the insured, no deduction shall be allowed for any claim that has been paid under the contract being canceled.

7. If cancellation is requested in writing by the insured within 30 days from the date of purchase, full refund, minus the cancellation fee, if any, shall be made.

Section 5. Failure to Comply

In addition to any other penalties provided by the Louisiana Insurance Code relating to the regulation of Vehicle Mechanical Breakdown (VMB) insurers, any VMB insurer found to have violated the requirements of this regulation, may be issued a cease and desist order pursuant to R.S. 22:1810.

Section 6. Severability

If any section or provision of this regulation is held invalid, such invalidity shall not affect other sections or provisions which can be given effect without the invalid section or provision, and for this purpose the sections and provisions of the regulation are severable.

Section 7. Effective Date

This regulation shall take effect on June 20, 1998.

A public hearing on this proposed regulation will be held on April 27, 1998 in the Plaza Hearing Room of the Insurance Building Located at 950 North Fifth Street, Baton Rouge, LA, at 9 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to Yolanda M. Edwards, Staff Attorney, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-9204. Comments will be accepted through the close of business at 4:30 p.m., April 27, 1998.

James H. "Jim" Brown
Commissioner of Insurance

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Vehicle Mechanical Breakdown Insurers Cancellation Provisions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
It is not anticipated that the Department of Insurance will incur any costs or savings as a result of implementing this proposed regulation.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Adoption of this proposed regulation will have no effect on revenue collections of state or by local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no fiscal impact upon insurance carriers or insureds as a result of the adoption of this proposed regulation. The insurers are currently using the method of cancellation proposed in this regulation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
It is not anticipated that this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9803#014

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Justice Office of the Attorney General

Nonprofit Hospital Acquisitions
(LAC 48:XXV.Chapter 3)

In accordance with R.S. 49:950 et seq., the Office of the Attorney General is proposing to adopt the following rule governing the review and approval of nonprofit hospital acquisitions. The purpose of the rule is to set forth procedures for the review and authorization of nonprofit hospital acquisitions pursuant to R.S. 40:2115.11 through 2115.22.

Title 48

PUBLIC HEALTH—GENERAL

Part XXV. Mergers, Acquisitions, and Re-Organization Chapter 3. Nonprofit Hospital Acquisitions: Authorization for the Attorney General to Review Nonprofit Hospital Acquisitions

§301. Purpose

A. These rules are adopted in accordance with the public interest of assuring the continued existence of accessible, affordable health care facilities that are responsive to the needs of the communities in which they exist. In that regard, the state has a responsibility to protect the public interest in nonprofit hospitals by making certain that the charitable assets of those hospitals are managed prudently pursuant to the provisions of R.S. 40:2115.11 through 2115.22.

B. These rules are adopted to further Louisiana's goal of controlling health care costs and improving the quality of and access to health care for its citizens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§303. Definitions

A. As used within the rules:

Acquirer—any legal entity to which the nonprofit hospital plans to sell, merge, or otherwise contract, along with each affiliate, parent, and/or subsidiary which it directly or indirectly controls, manages, owns, or operates. The *acquirer* may be another nonprofit hospital.

Affiliate—any or all of the following: corporation; partnership; sole proprietorship; joint venture; trust; natural person; or any other entity, whether existing for commercial or noncommercial purposes, however organized, in which any person or entity owning, directly or indirectly or beneficially, 3 percent of the acquirer owns directly, or indirectly, or beneficially, 50 percent or more of the affiliates.

Attachment—each document or object sent or provided with any document or object, and includes each document or object sent with it, whether it be a letter, memorandum, contract, document or other writing or object.

Certified Mail—uninsured first class mail whose delivery is recorded by having the addressee sign for it.

Comment—a written document offering explanation, illustration, criticism, or personal opinion.

Days—consecutive calendar days.

Department—the Louisiana Department of Justice, Office of the Attorney General.

Director—the director of the Civil Division.

Documents or *Document*—all writing or any other record of any kind, including originals and each and every non-identical copy (if different from the original for any reason).

Document(s) includes, but is not limited to:

a. correspondence, memoranda, notes, diaries, calendars, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, receipts, returns, summaries, pamphlets, books, and interoffice and intra office communications;

b. notations (of any sort) of conversations, telephone calls, meetings, and other communications;

c. bulletins, printed matter, computer printouts, computer generated output, teletypes, telefax, facsimiles, invoices, worksheets, drafts, alterations, modifications, changes, and amendments of any kind;

d. photographs, charts, maps, graphs, sketches, microfiche, microfilm, videotapes, video recordings, and motion pictures; and

e. any electronic or mechanical records or representations of any kind, including, but not limited to tapes, cassette, diskettes, audio recordings, computer hard drives and other means of storing information.

Expert—one who is knowledgeable in a specialized field, that knowledge being obtained from either education or personal experience. For example, any economist, accountant,

financial advisor, investment banker, broker, valuation specialist, or other person who is consulted, relied upon, retained, or used by the nonprofit and/or acquirer.

Financial Statement—

a. any compilation or statement (audited, unaudited, or draft) of the nonprofit's financial position. *Financial statements* (regardless of precise terminology) include, but are not limited to:

i. tax returns;

ii. balance sheets;

iii. statements of income and expenses;

iv. statements of profit and loss;

v. statements of stockholders' equity; and

vi. statements of changes in financial position;

b. each and every financial statement should include each and every related footnote of the respective financial statement.

Foundation—a permanent fund established and maintained by contributions for charitable, educational, religious, or benevolent purposes.

Nonprofit Hospital or *Nonprofit Entity*—any, some, or all of the firms, companies, or entities which the notifying nonprofit hospital, any of its subsidiaries, affiliates (see *affiliate* definition), firms, companies or entities may control, manage, own or operate. The nonprofit should be the entity filing the notice with the attorney general.

Objection—a written document offered in opposition to the approval of an application which states the reason, grounds, or cause for expressing opposition.

Person—any natural person, public or private corporation (whether or not organized for profit), governmental entity, partnership, association, cooperative, joint venture, sole proprietorship, or other legal entity. With respect to the nonprofit and/or acquirer, the term *person* also includes any natural person acting formally or informally as an employee, officer, director, agent, attorney, or other representative of the nonprofit and/or acquirer.

Persons on Record—persons submitting written documentation to the director, by certified mail, stating objections, comments, or requests for notification of actions by the department involving a particular application. Persons on record status must be renewed by written request, sent by certified mail to the director, prior to December 31 of each calendar year.

Transaction or *Proposed Transaction*—the proposed sale, merger, or other agreement between the nonprofit hospital and the acquirer which resulted in the submission of the notice to the attorney general pursuant to R.S. 40:2115.11 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§305. Notice

A. Nonprofit persons who are parties to a transaction shall give the attorney general at least 30 days notice prior to the anticipated closing of the intended transaction.

B. The written notice shall include all of the following information:

1. the names, addresses and telephone numbers of the parties to the intended transaction;
2. the names, addresses and telephone numbers of the attorneys or other persons who represent the parties in connection with the intended transaction;
3. a general summary of the intended transaction;
4. a general description of the assets involved in the intended transaction and the intended use of the assets after the closing of the intended transaction, including any change in the ownership of tangible or intangible assets;
5. a general summary of all collateral transactions that relate to the intended transaction, including the names, addresses and telephone numbers of the parties involved in the collateral transactions; and
6. the anticipated completion date of the intended transaction.

C. Giving notice shall comply with the following format.

1. The notice shall be in writing, which pages shall be numbered and printed on paper measuring 8½ inches by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, the notice shall be printed on white paper.
2. Notice shall be sent to the director by certified mail. The director shall receive notice at least 30 days prior to the proposed transaction.
3. Notice shall not be given by facsimile machine.
4. Notice which does not comply with these rules shall not be accepted and will be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§307. Filing of Applications and Additional Documents

A. Filing of Applications

1. Applications shall be filed by delivering an original and three copies to the director.
2. The filing date of a conforming application shall be the date the department determines the application to be a completed application.
3. No application shall be filed by facsimile machine.
4. Applications filed with the department become property of the state.
5. Applications shall be accompanied with the filing fee as determined by §309 in accordance with R.S. 40:2115.22.
6. The application must include the contents of application.
7. The application shall be submitted to the attorney general on the forms provided and include the information requested therein.
8. The department may at any time request any other supplemental or additional documentation, disclosures, information, etc., as it deems necessary to the evaluation. The applicant shall provide the information not later than 10 days after the date of the request.
9. The application must be in the following format.
 - a. Applications shall be submitted to the attorney general on the forms provided and in accordance with the instructions therein.

- b. Trade secret information shall be printed on goldenrod colored paper to assist in identifying material exempt from the Louisiana Public Records Act.
- c. Applications which do not comply with these rules shall not be accepted and will be returned to the applicant.

B. Forms

**LOUISIANA ATTORNEY GENERAL'S APPLICATION
REQUEST FOR INFORMATION FORM
For Certain
NONPROFIT MERGERS, SALES, AND ACQUISITIONS**

**PLEASE CAREFULLY REVIEW THE INSTRUCTIONS AND
DEFINITIONS FORM PRIOR TO COMPLETING THIS FORM**

1. Name of Nonprofit to be Acquired: Identify each and every nonprofit entity or entities (hereinafter "nonprofit") which is the subject of an impending acquisition in accordance with R.S. 40:2115 et seq.

2. Contact Person for Nonprofit: Provide the full legal name, title, address, telephone and facsimile number for the contact person regarding this Form (this individual will also receive any requests for additional information for documents):

3. Directors and Officers: Identify by full legal name and title each and every director and officer of the nonprofit.

4. Corporate Documents of Nonprofit: Attach as Appendix A, all corporate documents relating to the nonprofit entity and selected entities filing this Request. Include corporate documents of all parents, subsidiaries, or affiliates of the nonprofit. For the purpose of this Request, "corporate documents" means the charter or articles of incorporation, bylaws, and any and all amendments to each corporate document.

5. Name of Acquirer: Identify the proposed acquirer of the nonprofit (hereinafter "acquirer") identified in Request #1. Include in your response the identity of any (a) parent, (b) subsidiary, and/or (c) affiliate of the acquirer.

6. Contact Person for Acquirer: Provide the full legal name, title, address, telephone, and facsimile number of the contact person for the acquirer.

7. Corporate Documents of Acquirer: Attach as Appendix B copies of all corporate documents relating to the acquirer identified in Request #4.

8. Value of Nonprofit Assets: What is the aggregate approximate value of the nonprofit assets to be acquired in the proposed transaction?

9. Description of Proposed Transaction: Attach as Appendix C a detailed description of the proposed transaction, including a detailed explanation of what is to be acquired by the acquirer, what is to be retained by the nonprofit(s), and the resulting funds to be received by the nonprofit(s). This should also include an analysis of the purchase price, based upon the nonprofit's interpretation of the letter of intent or definitive contract. The analysis should begin with the nonprofit's balance sheet, should consider the impact of any fund balances and/or liabilities to be retained by the resulting foundation, and end with a resulting fund balance for the proposed foundation to be created. This analysis should include reasonable estimates for any proposed purchase price adjustments called for in the letter of intent or definitive agreement. The objective of this analysis is to enable the Office of the Attorney General to understand the pricing of the transaction and the capitalization of any resulting foundation.

10. Description of Negotiations of the Transaction: Attach as Appendix D a detailed description of all discussions and negotiations between nonprofit and acquirer resulting in the proposed transaction. This response should include, but not be limited to, a summary outline in date sequence of any and all meetings held with the following parties with respect to the proposed transaction:

(a) With the nonprofit's financial advisors or investment bankers related to the proposed transaction (including, but not limited to, management, committees of the board of directors or meetings of the full board);

(b) With prospective purchasers, networkers, merging partners of the nonprofit (or substantially all of the nonprofit), together with a brief summary of the results of such meetings;

(c) With the ultimate acquirer; and

(d) With other parties deemed significant to the transaction (including, but not limited to, outside experts or other consultants).

11. Closing Date: What is the expected date of closing of the proposed transaction?

12. Governmental Filings: Attach as Appendix E all filings with respect to the proposed transaction, including all amendments, appendices, and attachments, and each report or document provided to each federal, state, or local governmental entity regarding the proposed transaction. Include copies of forms to be provided to each such entity, the answer to information or questions on such forms, and each attachment submitted in connection therewith.

13. Meetings with Governmental Officials: Attach as Appendix F summaries of all meetings with federal, state, or local authorities regarding any filings or documents referenced in Request #12. Also, include each and every document which memorializes or discusses any and all meetings or other communications with the United States Department of Justice, Federal Trade Commission, or any other state, federal or local governmental entity in connection with the proposed transaction.

14. Acquirer's Prior Acquisitions: Identify all prior acquisitions by the proposed acquirer with the last three (3) years, including the following information for each:

- (a) Date of Acquisition;
- (b) Entity Acquired;
- (c) City/State;
- (d) Brief Description;
- (e) Purchase Price; and
- (f) Form of Consideration.

15. Letters of Intent: Attach as Appendix G any and all drafts and final versions of any and all letters of intent, confidentiality agreements, or other documents initiating negotiations, contact, or discussion between the acquirer and nonprofit.

16. Contracts or Purchase Agreements: Attach as Appendix H any and all drafts and final versions of asset purchase agreements, contracts or agreements to purchase the nonprofit by the acquirer. Your response must also include any attachments, amendments, schedules, or appendices to such agreements.

17. Fairness Opinions: Attach as Appendix I any and all fairness opinions analyzing the proposed transaction along with any supplemental analysis prepared by the nonprofit or its experts. Include in your response the name of the company and the person(s) who prepared the opinion, their business telephone numbers and addresses, the agreement or engagement letter with such company or person, and background information regarding the company or person's qualifications.

18. Meeting Minutes and Other Information: Attach as Appendix J the following documents with respect to each meeting, whether regular, special, or otherwise, of the board of directors or board of trustees for each nonprofit or acquirer.

- (a) Announcements and the persons to whom the announcements were sent;
- (b) Agenda;

(c) Minutes and/or resolutions of the board of directors or board of trustees for each nonprofit entity or acquirer which reflect or discuss the proposed transaction, including those regarding the final vote;

(d) Each written report or document provided to the board or board members, including, but not limited to, each committee report and each expert's report;

(e) Each proposal or document referencing or regarding possible or actual sale, merger, acquisitions, or distribution of assets of any nonprofit entity;

- (f) Each presentation to the board or any committee to the board; and

- (g) Each attachment to (a) through (f).

19. Valuation Information: Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning the valuation during the last three (3) fiscal years of the nonprofit entities, their assets, their properties, their worth as a going concern, their market value, or their price for sale. This Request shall include, but not be limited to, any appraisals of the common stock of any for-profit subsidiaries of the nonprofit, any appraisals involving property held by the nonprofit.

20. Information Regarding Other Offers: Attach as Appendix K each appraisal (with each attachment), evaluation (with each attachment), and similar document (with each attachment) concerning any negotiation, proposal, or sale either initiated or received by the nonprofit regarding a sale of all or substantially all of its assets, a merger, a joint venture, a combination, an arrangement, a partnership, an acquisition, an alliance, or a networking relationship, and the dollar value of such proposed transaction.

21. Mission Statement: Attach as Appendix M any and all mission statements of the nonprofit.

22. Press Releases and Related Information: Attach as Appendix N any and all press releases, newspaper articles, radio transcripts, audiotapes and videotapes of any television commercials or reports regarding the proposed transaction and any other offers identified in Request # 20.

23. Financial Records: Attach as Appendix O all of the following for the last six (6) fiscal years for both the nonprofit and acquirer, unless otherwise indicated:

(a) Audited and unaudited financial statements. Audits are sometimes presented in abbreviated form or in fuller form, with detailed supplements. Provide the most detailed form of your audit that is available;

(b) Consolidating statements (balance sheets and income statements for each fiscal year);

(c) Year-to-date internal financial statements for the most recent month-end available during the current year. Be sure that the statements are comparative (with the same period of the previous fiscal year), otherwise provide last year's internal financial statements for the corresponding period as well;

(d) If separate audited financial statements are prepared for any of your nonprofit members or affiliates, or any parent or subsidiary of the acquirer, please provide those audits, together with comparative year-to-date financial statements for each such member, affiliate, parent or subsidiary;

(e) For the nonprofit only, projected capital expenditure requirements for the next three (3) years, assuming the nonprofit continues to operate as it has been operating;

(f) Each balance sheet, profit and loss statement, statement of change in financial position of the nonprofit, any entity or company it controls, operates, manages, or is affiliated with and also the same information for the acquirer and any entity which you reasonably believe it owns, operates, manages, or controls;

(g) For the nonprofit only, a detailed schedule of operating expenses, unless already provided with the audits;

(h) For the nonprofit only, an analysis (aging) of accounts receivable by major category, of receivables as of the most recent month-end available, indicating the amounts ultimately considered collectable by the nonprofit;

(i) For the nonprofit only, management compensation (salary, bonus, other benefits) for the five (5) officers of the nonprofit receiving the greatest amount of compensation;

(j) Identify any material off-balance sheet assets or liabilities (i.e., any assets or liabilities not reflected on the most recent audited financial statements) and provide documentation concerning such assets or liabilities. Examples of such items would include a significant under- or over-funding in the pension plan or a current litigation judgment not reflected in the most recent audit;

(k) Identify any material contingent assets or liabilities, and the conditions that must occur for any such contingent assets to be realized or for any such contingent liabilities to be incurred; and

(l) Identify all accounting firms, including the name, address, and telephone number of the accountant(s) primarily responsible for accounting and auditing of the entities for the last six (6) years.

24. Foundation Issues:

(a) Attach as Appendix P the detailed written plan of the preservation, protection, and use of any and all proceeds from the dissolution of the nonprofit, or the sale to or merger with the acquirer. State and fully explain whether any money, property, or proceeds resulting from the transaction referred to in your Notice or the operation of the foundation will benefit any director, officer or for-profit person or entity, directly or indirectly. The detailed plan shall include bylaws, a conflict of interest statement, a defined mission, the proposed investment policy, and granting procedures.

(b) Attach as Appendix Q proof that any asset purchase agreement or other contract, by whatever name, does not incorporate or place any restrictions which any for-profit entity may place on the use of charitable or nonprofit funds and any other funds or property, either now or in the future, by any foundation created or endowed to preserve, disburse, or protect the funds.

(c) Attach as Appendix R a report indicating, showing, explaining, and discussing the properties and assets, whether cash, securities, intangible property, and all other property (listing each encumbrance), available for charitable purposes before and after the transaction and showing or discussing what entity or person will control, manage, operate, deploy, and use the charitable or nonprofit properties or assets. Include in your response the full legal name, title, business address, and telephone number of the individual preparing said report.

25. Existing Foundations or Restricted Donations: Attach as Appendix S any and all documents reflecting any existing foundations or other restricted donations, including, but not limited to, trusts that are designated or intended to benefit the current nonprofit. Include a detailed statement setting forth your intention with regard to such restricted donations.

26. Conflict of Interest, Self-Interest, and Self-Dealing Issues:

(a) Attach as Appendix T an affidavit for each officer and director of the nonprofit.

(b) Attach as Appendix U any and all documents reflecting any possible conflict of interest, self-interest, or self-dealing of any board member, officer, or director in connection with the proposed transaction. Such documents shall include evidence of any disclosures or other curative measures taken by the board and any documents suggesting or referencing financial or employment incentives or inducements offered to any board member, director or officer.

(c) Attach as Appendix V each memorandum, report, letter, or other document suggesting or referencing any employment or position (actual or possible) with acquirer for any officer or director of the nonprofit after the transaction is completed, as well as any assets, funds, annuity, deferred compensation or other economic or tangible benefit to be provided, whether or not in exchange for services rendered or to be rendered to any nonprofit or acquirer.

27. Persons Involved in Decision Making of Planning: Attach as Appendix W a list of the full legal names, titles, addresses, and telephone numbers of each and every officer, director, representative, manager, executive, expert or other persons having substantial input, at any phase of decision making or planning, into the decision or plan for the proposed transaction.

28. Market Studies: Attach as Appendix X each market study (and attachments) done for or by a nonprofit, or otherwise received by a nonprofit. Include an analysis of the nonprofit's market share from the perspectives which are normally tracked by the nonprofit board.

29. Registered Agents for Service or Process: Identify the registered agent for service of process, including his or her complete address, for each nonprofit and for the acquirer.

For Nonprofit: _____

For Acquirer: _____

30. Litigation and Proceedings: Attach as Appendix Y copies of any and all complaints, pleadings, memoranda, court orders, settlements, liens or other security interests, and consent decrees filed in litigation in which the nonprofit and/or acquirer was or is a party.

Please include in your response any and all complaints, pleadings, memoranda, orders, settlements, opinions, notices of investigation (including subpoenas, civil investigative demands or other requests for information), of any state, federal, local government department, court, agency, or any other legal proceeding in which the nonprofit and/or acquirer was or is a party.

**CERTIFICATION AND VERIFICATION
AFFIDAVIT OF THE NONPROFIT**

To be completed by President or Chief Officer

This Requests for Information Form, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with the instructions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been made or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purposes of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty or perjury**.

STATE of _____ To be completed by Affiant:
Parish/County: _____
Affiant's Name: _____
Signature: _____ Title: _____
Date: _____ Address: _____
Sworn and subscribed before me this _____ day of _____, _____
199____ Telephone No.: _____
Notary Public Facsimile No.: _____
My Commission expires: _____

AFFIDAVIT OF OFFICERS AND DIRECTORS

STATE OF _____ SOCIAL SECURITY NO. _____
PARISH/COUNTY OF _____

I, _____, after first being duly sworn, do hereby depose and, upon personal knowledge, state as follows:

- 1. I am an officer/director (please circle appropriate response) of _____ (insert name of nonprofit).
- 2. I have been an officer/director (please circle appropriate response) since _____, 199____. Please identify any committees you have served on, the length of service on each committee, and any titles you have held on such committees.

- 3. My home address is _____

- 4. My business telephone number is _____. My business facsimile number is _____.
- 5. I do/do not (circle appropriate response) own stock or options and/or warrants to purchase stock in _____ (Insert name of acquirer) or any parent, subsidiary, or affiliated company.
- 6. _____ (insert "no one in my immediate family," or the name[s] of family member[s], own(s) stock or options and/or warrants to purchase stock in _____ (insert name of acquirer) or any parent, subsidiary, or affiliated company.
- 7. I am/am not (circle appropriate response) employed by _____ (insert name of acquirer) or any parent, subsidiary, or affiliate company.
- 8. _____ (insert "no one in my immediate family" or the name[s] of family member[s] is/are employed by _____ (insert name of acquirer) or any parent, subsidiary, or affiliated company.
- 9. I will/will not (circle correct response) receive any financial benefit from the sale/merger (circle correct response) of _____ (identify nonprofit to be acquired) to _____ (insert name of acquirer).
- 10. _____ (insert "no one in my immediate family," or the name[s] of family member[s] will receive any financial benefit from the sale/merger (circle correct response) of _____ (identify nonprofit to be acquired) _____ (insert name of acquirer).
- 11. I have/have not (circle appropriate response) been contacted or otherwise requested or been offered a position on the _____ (insert name of acquirer) board or any of its subsidiaries, affiliates, or parent companies, or otherwise been offered employment of any sort with _____ (insert name of acquirer) or any of its subsidiaries, affiliates or parent companies.

12. I am/am not compensated for my services as an officer/director (circle appropriate response) of _____ (insert name of nonprofit). If your response is that you are compensated, please state the amount of your compensation per year: _____.

13. Briefly describe your education background:

14. Briefly describe your business or work experience:

15. Explain the reasons why you voted to approve the transaction to merge/sell _____ (insert nonprofit's name) to _____ (insert name of acquirer).

16. Please briefly explain any information you had regarding valuation of _____ (insert nonprofit's name) and other options available to _____ (insert nonprofit's name) prior to approving the transaction referenced in Item 15.

17. I do/do not (circle appropriate response) plan to become a director or officer of the foundation or other nonprofit entity to be created from the assets resulting from the sale or merger of _____ (insert nonprofit's name) to _____ (insert name of acquirer). I will/will not (circle appropriate response) receive compensation for my service in such position. If your response is that you will be compensated, please state the amount of the compensation per year: _____

18. I do/do not (circle appropriate response) have any conflict of interest, self-interest, financial interest or other self-dealing with regard to the proposed transaction with _____ (insert name of acquirer). If your answer is yes, please explain such interest in detail.

I certify, upon personal knowledge, that the information in this affidavit is true, accurate, and complete, **under penalty of perjury**.

Affiant's
Signature: _____
Date: _____

Sworn and subscribed
before me this _____
day of _____,
199____

Notary Public
My Commission expires: _____

**CERTIFICATION AND VERIFICATION
AFFIDAVIT OF THE ACQUIRER**

In order to assist _____ (insert name of nonprofit), _____ (insert name of acquirer) provided information used to complete the Request for Information Form by _____ (insert name of nonprofit). Attached as Exhibit A to this Affidavit are _____'s (insert name of acquirer) responses to the Request for Information Form, together with any and all appendices and attachments thereto. Exhibit A was prepared and assembled under my supervision in accordance with the instructions and definitions and definitions issued by the Attorney General. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete. If copies were submitted in lieu of originals, the documents submitted are true and exact copies. I understand that my obligation to provide information pursuant to this Request shall be continuing in nature and shall forthwith notify the Attorney General, in writing, of any representations that have been or that might have been made in accordance with this Request which need to be updated, corrected or modified. The copies also are authentic for the purpose of Louisiana law. If copies were submitted, I also agree to retain the originals under my care, custody, and control, and I will not destroy or alter the originals without the express written consent of the Attorney General or his appointed designee.

I certify, upon personal knowledge, that the attached form has been completed with true and accurate information, **under penalty of perjury.**

STATE of _____ To be completed by Affiant:
Parish/County: _____
Affiant's Name: _____
Signature: _____ Title: _____
Date: _____ Address: _____
Sworn and subscribed before me _____
this ____ day of _____, _____
199_____
Notary Public Telephone No.: _____
My Commission expires: _____ Facsimile No.: _____

LOUISIANA ATTORNEY GENERAL'S

**Request for Information Form for Certain
Nonprofit Mergers, Sales, and Acquisitions**

INSTRUCTIONS AND DEFINITIONS

1. All responses to the Request for Information Form must be typed or clearly printed in black ink. **You must use only the official forms.**

2. All documents and appendices must be provided in compliance with the following:

(a) one set of original documents and three (3) separate sets of legible and collated copies of all documents must be submitted;

(b) each appendix shall be submitted in a separate legal size folder clearly marked with the appendix number along with the name of your nonprofit entity and the date of the Attorney General's Request for Information, set forth in Instruction #9. *For example, Nonprofit Company X, Appendix A, July 1, 1996;* and

(c) each document must be consecutively numbered and labeled along with an abbreviation for your nonprofit entity. *For example, the first document of a submission by the Nonprofit Company X, would be labeled NCX0001.* These initials and numbers should appear in the lower right-hand corner of each document.

3. All amendments or late-filed documents or responses must be clearly labeled to indicate which Request or appendix folder the document should be placed in upon receipt by the State. Such documents must be submitted in compliance with all other instructions herein.

4. Unless otherwise indicated, documents to be produced pursuant to this Request for Information Form include each and every document prepared, sent, dated, received, in effect, or which otherwise came into existence during the last three (3) years through the date of the production of documents by the nonprofit pursuant to this Request. Responses to the Request must be supplemented, corrected, and updated until the close of the transaction. **The Attorney General, at his discretion, may require the production of additional documents.**

5. For each Request calling for the production of documents, produce each and every responsive document in the nonprofit and/or acquiring entity's care, possession, custody, or control, without regard to the physical location of those documents.

6. If the nonprofit and/or acquiring entity possesses no documents responsive to a paragraph of this Request, the nonprofit and/or acquirer must state this fact, specifying the paragraph(s) or subparagraph(s) concerned, in the response. If the nonprofit and/or acquirer must submit documents at a later date than that set forth in Instruction #9, the following procedure is required: the nonprofit and/or acquirer must state this fact, specify the paragraph(s) or subparagraph(s) concerned, identify the document(s) to be produced, and state the expected date of production.

7. If the nonprofit and/or entity asserts a privilege in response to a Request, the nonprofit and/or acquiring entity must state the privilege, the basis of the privilege, and identify the documents and Request to which the privilege attaches.

8. Responses to Requests not requiring the production of documents should be typed or clearly printed in black on the Request for Information Form. If additional space is required, you should attach additional 8 1/2" x 11" size pages, clearly noting at the top of the page to which Request the additional information is responsive and the identity of the nonprofit providing the information. *For example: Nonprofit Company X, Continuation to Request #3.*

9. This Request for Information is dated _____. The Attorney General must receive a complete response to this initial Request for Information Form, no later than _____ 199_. If you are unable to provide the information by the date set forth above, please contact, _____, Assistant Attorney General, at _____ within twenty-four (24) hours to discuss an extension of the statutory fifteen (15) day period in order to extend the time period for you to respond to this Request. If you request an extension of the time period, you will be provided an Extension of the fifteen (15) Day Period Form, via facsimile transmission, which must be returned within twenty-four (24) hours of your discussion with the Assistant Attorney General or paralegal in order to extend the response period for the Request for Information. All extensions are subject to the final approval of the Attorney General.

10. All responses to this Request for Information shall be sent by United States Mail, hand delivered, or a nationally recognized express delivery service to the following individual.

Assistant Attorney General

11. The Request for Information Form is not complete or valid without the Certification and Verification Affidavits executed under oath in the presence of a notary and attached to the Request for Information Form.

12. Copies may be submitted in lieu of originals as long as the nonprofit and/or acquirer indicate(s) that the documents are copies, the location of the originals, and the reason for the substitution of copies. All originals must be returned as set forth in the Certification and Verification Affidavits. Additionally, the nonprofit and/or acquirer must sign the Certification of Verification Affidavit(s), agreeing that the documents are authentic for the purposes of Louisiana law.

13. All questions regarding these forms, the scope of any Request, and instruction, or any definitions shall be directed to the Assistant Attorney General listed in Instruction #10.

14. This Request for Information Packet should include all of the following forms:

- Form : Instructions and Definitions
- Form : Request for Information Form
- Form : Certification and Verification Affidavit of the Nonprofit Affidavit of Officers and Directors

If your packet is missing any of the above listed forms, please contact by telephone the Assistant Attorney General listed in Instruction #10 immediately. Your response to the Request for Information Form is not complete until the Attorney General's Office has received all of the above listed forms, fully completed.

15. In the lower right-hand corner of each page of the Request for Information Form, type or print the name of the nonprofit in the space provided.

16. If two (2) or more nonprofits are merging, each nonprofit must complete the entire Request for Information Packet.

**EXTENSION OF THE FIFTEEN (15) DAY
PERIOD FORM FOR CERTAIN NONPROFITS**

On behalf of _____ (insert name of nonprofit), I, _____ (insert your name), hereby waive any right _____ (insert name of nonprofit) may have for the Attorney General to review the proposed application transaction between _____ (insert name of acquirer) within a fifteen (15) day period. On behalf of _____ (insert name of nonprofit), I hereby agree and consent to an extension of the fifteen (15) day period within which the Louisiana Attorney General's Office may review the transaction. Specifically, I agree that the fifteen (15) day period will be extended an additional _____ (insert number) days. Thus, the Attorney General's right to review _____'s (insert name of nonprofit) proposed transaction application shall not conclude before _____, 199____. (insert date extension will conclude). _____ (insert name of nonprofit) hereby agrees not to conclude or finalize the transaction until after _____, 199____. _____ (insert day after extension will conclude). I further agree to submit all documents requested by the Attorney General in the Request for Information Packet no later than _____, 199____.

The reason for this request is as follows: _____

On behalf of _____ (insert name of nonprofit), I, _____ (insert your name), represent and warrant that I have authority to act for and bind _____ (insert name of nonprofit).

I also understand that this Request for an Extension is subject to the final approval of the Attorney General. I certify, that this extension form has been completed with true and information, **under penalty of perjury.**

STATE of _____ To be completed by Affiant:
County of _____
Affiant's Name: _____
Signature: _____ Title: _____
Date: _____ Address: _____
Sworn and subscribed before me _____
this ____ day of _____, _____
199____
Notary Public Phone No.: _____
My Commission expires: _____ Facsimile No.: _____

C. Filing of Additional Documents

1. Format required for filing of additional documents shall be in accord with §307.A.9.

2. Documents relating to an application shall be filed by delivering an original and three copies to the director.

3. Additional documents to an application may be accepted by facsimile machine provided that the original and three copies thereof are received by the director no later than seven days after transmission of the facsimile.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§309. Fees

A. Remittance of Fees

1. In accordance with R.S. 40:2115.22 fees shall be remitted with the application and reports required by R.S. 40:2115.19. Fees shall be reasonably related to the costs incurred by the department in considering the application, evaluating reports, and performing other necessary administrative duties.

2. Fees shall be remitted only by certified check, cashier's check, or bank money order, and made payable to the department.

3. The fee shall be due with the application. The fee shall be \$50,000. If the actual cost incurred by the department is greater, the applicant shall pay any additional amounts due as instructed by the department.

4. The fee due with the filing of the report as required by R.S. 40:2115.19 shall be \$15,000. If the actual cost incurred by the department is greater, the parties involved shall pay any additional amounts due as instructed by the department.

B. If it becomes necessary for the department to file suit to enforce any provision of applicable law, these rules, or any of the terms of an approved application, then applicants/parties shall be responsible for all costs associated with any such litigation, including, but not limited to all court costs and attorneys fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§311. Notification of Pending Application and Public Hearing

A. In accordance with R.S. 40:2115.14:

1. within five working days of receipt of a completed application, the department shall notify all persons of record by first class United States mail of the filing of such application, and publish in the official journal of the parish where the hospital is located notice of the filing. The notice shall state the following:

- a. that an application has been received;
- b. the names of the parties to the agreement;
- c. a description of the contents of the agreement; and
- d. the date by which a person may submit comments

about the application to the attorney general.

B. In accordance with R.S. 40:2115.15:

1. the attorney general shall during the course of review of the application hold a public hearing in which any person may file written comments and exhibits, or may appear and make a statement;

2. the hearing shall be held no later than 30 days after receipt of a completed application. At least 10 working days prior to the scheduled public hearing, the department shall publish in the official journal of the parish where the hospital is located the location, date and time of the public hearing to be held in Baton Rouge, Louisiana;

3. at the public hearing, all interested persons shall be allowed to present testimony, facts, or evidence related to the application and shall be permitted to ask questions. The

department shall also receive comments regarding the transaction from any interested person; and

4. if requested by the department, persons required to appear and testify under oath, shall include, but not be limited to:

a. any expert or consultant retained by the applicant who was directly or indirectly involved in the preparation of any financial and/or economic analysis of the proposed transaction;

b. any independent expert or consultant retained by the department to review the proposed transaction regarding his or her finding and analysis; and

c. parties to the agreement, officers, and members of the governing boards of the facilities involved;

5. the department may require additional information or testimony from other persons, including but not limited to, members of the medical staff, nursing staff, contract employees, architects, engineers, other employees, or contractors of the facilities involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§313. Application Review

A. In accordance with R.S. 40:2115.14:

1. the attorney general shall, within 15 days after the date an application is received, determine if the application is complete for the purposes of review. If the department determines that an application is unclear, incomplete, or contains an insufficient basis upon which to provide a decision, the application shall be returned to the applicant;

2. if the attorney general determines that an application is incomplete, he shall notify the applicant within 15 days after the date the application was received, stating the reasons for his determination of incompleteness with reference to the particular questions for which a deficiency is noted;

3. if an application is returned to the applicant and the applicant will be resubmitting the application for further review, the filing fee shall remain deposited; and

4. if an application is returned and the applicant elects not to resubmit an amended application, the department shall return the filing fee submitted with the application less costs associated with the review process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§315. Final Decision

A. The attorney general shall review the completed application. Within 60 days after receipt of a completed application, the attorney general shall either:

1. approve the acquisition, with or without specific modifications; or

2. disapprove the acquisition.

B. Any approval shall be conditioned upon the periodic submission of specific data relating to cost, access, and quality, and to the extent feasible, identify objective standards of cost, access, and quality by which the success of the arrangement will be measured.

1. The final decision shall be in writing and be based

upon findings of fact and conclusions of law supporting the decision.

2. The department may condition approval on a modification of all or part of the proposed arrangement.

3. A copy of the final decision shall be sent, by certified mail, to the applicant. All persons on record shall be provided notice of the decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§317. Reports and Ongoing Supervision of Certificates

A. In accordance with R.S. 40:2115.19, the parties to the agreement shall submit information and supporting data on an annual basis regarding the current status of the agreement, including information relative to the continued benefits, any disadvantages of the agreement, and sufficient information to evaluate whether any terms and conditions imposed by the department have been met or otherwise satisfied. Reports shall be due on or before the annual anniversary date of the approval. Parties are under a continuing obligation to provide the department with any change to the information contained in the application subsequent to the approval of the application. Such information shall be provided to the department in a timely fashion or within a reasonable time that such information is known to the parties. The attorney general may subpoena information and documents reasonably necessary to assure compliance.

B. The information and supporting data that must be submitted to the department shall include, but not be limited to, the following:

1. an update of all the information required in the application;

2. any change in the geographic territory that is served by the health care equipment, facilities, personnel, or services which are subject of the agreement;

3. a detailed explanation of the actual effects of the agreement on each party, including any change in volume, market share, prices, and revenues;

4. a detailed explanation of how the agreement has affected the cost, access, and quality of services provided by each party; and

5. any additional information requested by the department.

C. Requested data shall be in the following format.

1. The page shall be numbered and printed on paper measuring 8½ by 11 inches. The margins shall not be less than 1 inch on all sides. Unless otherwise required, all data shall be printed on white paper.

2. Trade secret information shall be designated and printed on goldenrod colored paper to assist identifying material exempt under the Louisiana Public Records Act.

D. The department may, at any time, require the submission of additional data or alter the time schedule for submission of information. The parties shall be notified by certified mail of any requirement for the submission of additional information or alteration of the time for submission of materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

§319. Revocation

A. If at any time, the attorney general receives information indicating that the acquiring person is not fulfilling the commitment to the affected community as provided for in R.S. 40:2115.18, the attorney general shall hold a hearing upon 10 days notice to the affected parties.

1. If after the hearing the attorney general determines that the information is true, it may petition the Louisiana Department of Health and Hospitals to revoke the license issued to the purchaser.

2. Any action for license revocation shall be conducted in accordance with the provisions of R.S. 40:2109 et seq., and the regulations promulgated thereunder.

B. Notwithstanding any other provision of this part any amendment or alteration to an approved cooperative, merger, or consolidation agreement and any material change in the operations or conduct of any party to a cooperative, merger, joint venture, or consolidation shall be considered a new agreement and shall not take effect or occur until the attorney general has approved the amendment, alteration, or change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2115.11 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 24:

Any interested person may submit written comments regarding the contents of the proposed rule to Kay Kirkpatrick, Deputy Attorney General, Civil/Gaming Program, Attorney General's Office, Box 94005, Baton Rouge, LA 70801-94005. All comments must be received no later than 5 p.m., April 20, 1998.

Kay Kirkpatrick
Deputy Attorney General

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Nonprofit Hospital Acquisitions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rules implement legislation that provides that no not-for-profit hospital shall be acquired by any person unless and until the acquisition is reviewed and approved by the attorney general. The estimated costs to the Department of Justice will be \$68,375 for FY 97-98, \$174,528 for FY 98-99, and \$175,453 for FY 99-2000. The increased costs to the department will be offset by the imposition of fees generated by the proposed rules. There will be no effect on local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Fees are estimated to generate \$68,375 for the first fiscal year, \$174,528 for the second, and \$175,453 for the following year, and will be sufficient to implement the proposed action. The rules will have no effect on revenue collections for local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The rules are adopted in accordance with the public interest

of assuring the continued existence of accessible, affordable health care facilities that are responsive to the needs of the communities in which they exist. Direct costs to applicants will include an application fee of \$50,000 and annual reporting fees of \$15,000 for the ensuing five years. If actual costs incurred by the department are greater, the applicant shall pay additional amounts due as instructed by the department.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The attorney general shall approve the acquisition unless he finds that the acquisition is not in the public interest. Impacts on competition and employment may be factors used to determine whether the acquisition is in the public interest. At this time, the estimated effect is unknown.

E. Kay Kirkpatrick
Deputy Attorney General
9803#027

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Natural Resources
Office of Conservation**

Drug Testing (LAC 43:XIII.3103, 3107, and 3109)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the drug testing regulations.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation—Pipeline Safety

Subpart 1. General Provisions

Chapter 31. Drug Testing

§3103. Definitions

* * *

Administrator—the administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * *

State Agency—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:532 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:

§3107. Anti-Drug Plan

* * *

B. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 16:134 (February 1990), repromulgated LR 16:533 (June 1990), amended LR 18:852 (August 1992), LR 21:826 (August 1995), LR 24:

Chapter 33. Alcohol Misuse Prevention Program
§3309. Definitions

As used in this Chapter:

* * *

State Agency—an agency of any of the several states, the District of Columbia, or Puerto Rico that participates under the pipeline safety laws (49 U.S.C. 60101 et seq.).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:751-757, redesignated as R.S. 30:701-707 and R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 21:829 (August 1995), amended LR 24:

Comments and views regarding the proposed rules and regulations will be accepted until 5 p.m., April 24, 1998. Comments should be directed, in writing, to Warren Fleet, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275.

A public hearing will be held at 9 a.m., April 27, 1998, in the Conservation Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA.

Warren A. Fleet
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Drug Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase in implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments will not have any costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments will not have any effect on competition and employment.

Mariano G. Hinojosa
Director of Pipelines
9803#059

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources
Office of Conservation

Natural Gas Pipeline Safety
(LAC 43:XIII.Chapters 1-29)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Conservation hereby proposes to amend the gas safety regulations.

Title 43

NATURAL RESOURCES

Part XIII. Office of Conservation—Pipeline Safety

Subpart 1. General Provisions

Chapter 1. General

§105. Incorporation by Reference

A. Any documents or portions thereof incorporated by reference in this Part are included in this Part as though set out in full. When only a portion of a document is referenced, the remainder is not incorporated in this Part.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§125. Definitions

* * *

Petroleum Gas—propane, propylene, butane, (normal butane or isobutanes), and butylene (including isomers), or mixtures composed predominantly of these gases, having a vapor pressure not exceeding 1,434 kPa (208 psig) at 38EC (100EF).

* * *

Transmission Line—a pipeline, other than a gathering line, that:

1. transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center;

2. operates at a hoop stress of 20 percent or more of SMYS; or

3. transports gas within a storage field. A large volume customer may receive similar volumes of gas as a distribution center, and includes factories, power plants, and institutional users of gas.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:852 (August 1992), LR 20:442 (1994), LR 21:821 (August 1995), LR 24:

Chapter 3. Reporting of Incidents, Safety-Related Conditions, and Annual Reports

§317. Report Forms

Copies of the prescribed report forms are available without charge upon request from the address given in §307. Additional copies in this prescribed format may be reproduced and used if in the same size and kind of paper. In addition, the information required by these forms may be submitted by any other means that is acceptable to the commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 20:442 (April 1994), LR 24:

§323. Filing Safety-Related Condition Reports

A. Each report of a safety-related condition under §321.A must be filed concurrently and (received by the commissioner and associate administrator, OPS) in writing within five working days (not including Saturday, Sunday, state or federal holidays) after the day a representative of the operator first determines that the condition exists, but not later than 10 working days after the day a representative of the operator discovers the condition. Separate conditions may be described in a single report if they are closely related. To file a report by telefacsimile (FAX), dial (504) 342-3094 and (202) 366-7128.

B. ...

1. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 11:254 (March 1985), amended LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:

Chapter 5. Class Locations

§501. Class Locations

A. This Section classifies pipeline locations for purposes of this Part. The following criteria apply to classifications under this Section.

1. A *class location unit* is an onshore area that extends 220 yards on either side of the centerline of any continuous one-mile length of pipeline.

2. Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.

B. Except as provided in Subsection C of this Section, pipeline locations are classified as follows.

1. A Class 1 location is:

a. an offshore area; or

b. any class location unit that has 10 or fewer buildings intended for human occupancy.

2. A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.

3. A Class 3 location is:

a. any class location unit that has 46 or more buildings intended for human occupancy; or

b. an area where the pipeline lies within 100 yards of either a building or a small, well-defined outside area (such as a playground, recreation area, outdoor theater, or other place of public assembly) that is occupied by 20 or more persons on

at least five days a week for 10 weeks in any 12-month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four or more stories above ground are prevalent.

C. The length of Class locations 2, 3, and 4 may be adjusted as follows.

1. A Class 4 location ends 220 yards from the nearest building with four or more stories above ground.

2. When a cluster of buildings intended for human occupancy requires a Class 2 or 3 location, the class location ends 220 yards from the nearest building in the cluster.

D. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 24:

§503. Gathering Lines and Petroleum Gas Systems

A. ...

B. Petroleum Gas Systems

1. each plant that supplies petroleum gas by pipeline to a natural gas distribution system must meet the requirements of this Part and ANSI/NFPA 58 and 59.

2. each pipeline system subject to this Part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this Part and of ANSI/NFPA 58 and 59.

3. in the event of a conflict between this Part and ANSI/NFPA 58 and 59, ANSI/NFPA 58 and 59 prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:443 (April 1994), LR 21:821 (August 1995), LR 24:

§509. Customer Notification

A. This Section applies to each operator of a service line who does not maintain the customer's buried piping up to entry of the first building downstream, or, if the customer's buried piping does not enter a building, up to the principal gas utilization equipment or the first fence (or wall) that surrounds that equipment. For the purpose of this Section, *customer's buried piping* does not include branch lines that serve yard lanterns, pool heaters, or other types of secondary equipment. Also, *maintain* means monitor for corrosion according to §2117 if the customer's buried piping is metallic, survey for leaks according to §2923, and if an unsafe condition is found, shut off the flow of gas, advise the customer of the need to repair the unsafe condition, or repair the unsafe condition.

B. Each operator shall notify each customer once in writing of the following information:

1. the operator does not maintain the customer's buried piping.

2. if the customer's buried piping is not maintained, it may be subject to the potential hazards of corrosion and leakage.

3. buried gas piping should be:

a. periodically inspected for leaks;

b. periodically inspected for corrosion if the piping is metallic; and

c. repaired if any unsafe condition is discovered.

4. When excavating near buried gas piping, the piping should be located in advance, and the excavation done by hand.

5. The operator (if applicable), plumbers, and heating contractors can assist in locating, inspecting, and repairing the customer's buried piping.

C. Each operator shall notify each customer not later than August 14, 1996 or 90 days after the customer first receives gas at a particular location, whichever is later. However, operators of master meter systems may continuously post a general notice in a prominent location frequented by customers.

D. Each operator must make the following records available for inspection by the administrator or a state agency participating under 49 U.S.C. 60105 or 60106:

1. a copy of the notice currently in use; and

2. evidence that notices have been sent to customers within the previous three years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:

Chapter 7. Qualification of Pipe

§713. Marking of Materials

A. Except as provided in §713.D, each valve, fitting, length of pipe, and other component must be marked:

1. as prescribed in the specification or standard to which it was manufactured, except that thermoplastic fittings must be marked in accordance with ASTM D 2513; or

2. ...

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:854 (August 1992), LR 20:443 (April 1994), LR 24:

Chapter 9. Pipe Design

§905. Design Formula for Steel Pipe

A. - C.2.a.i. ...

ii. the lowest yield strength determined by the tensile tests,

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§917. Design of Plastic Pipe

Subject to the limitations of §919, the design pressure for plastic pipe is determined in accordance with either of the following formulas:

$$P = 2S \frac{t}{(D&t)} \times 0.32$$

$$P = \frac{2S}{(SDR&1)} \times 0.32$$

where:

P = Design pressure, gauge, kPa (psig).

S = For thermoplastic pipe, the long-term hydrostatic strength determined in accordance with the listed specification at a temperature equal to 23EC (73EF), 38EC (100EF), 49EC (120EF), or 60EC (140EF); for reinforced thermosetting plastic pipe, 75,842 kPa (11,000 psi).

t = Specified wall thickness, mm (in.).

D = Specified outside diameter, mm (in.).

SDR = Standard dimension ratio, the ratio of the average specified outside diameter to the minimum specified wall thickness, corresponding to a value from a common numbering system that was derived from the American National Standards Institute preferred number series 10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:855 (August 1992), LR 24:

§919. Design Limitations for Plastic Pipe

A. - A.2. ...

B. Plastic pipe may not be used where operating temperatures of the pipe will be:

1. below -29EC (-20EF), or -40EC (-40EF) if all pipe and pipeline components whose operating temperature will be below -29EC (-20EF) have a temperature rating by the manufacturer consistent with that operating temperature; or

2. above the following applicable temperatures:

a. for thermoplastic pipe, the temperature at which the long-term hydrostatic strength used in the design formula under §917 is determined. However, if the pipe was manufactured before May 18, 1978 and its long-term hydrostatic strength was determined at 23EC (73EF), it may be used at temperatures up to 38EC (100EF).

b. for reinforced thermosetting plastic pipe, 66EC (150EF).

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

Chapter 11. Pipeline Design Requirements

§1141. Transmission Line Valves

A. Each transmission line, other than offshore segments, must have sectionalizing block valves spaced as follows, unless in a particular case the administrator finds that alternative spacing would provide an equivalent level of safety:

1. - 4. ...

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1151. Vaults: Drainage and Waterproofing

A. - B. ...

C. Electrical equipment in vaults must conform to the applicable requirements of Class 1, Group D, of the National Electrical Code, ANSI/NFPA 70.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1165. Instrument, Control, and Sampling Pipe and Components

A. ...

B. Materials and Design. All materials employed for pipe and components must be designed to meet the particular conditions of service and the following:

1. ...

2. except for takeoff lines that can be isolated from sources of pressure by other valving, a shutoff valve must be installed in each takeoff line as near as practicable to the point of takeoff. Blowdown valves must be installed where necessary.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:

Chapter 13. Welding Requirements

§1305. Qualification of Welders

A. ...

B. A welder may qualify to perform welding on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS by performing an acceptable test weld, for the process to be used, under the test set forth in Section I of Appendix C of this Part. Each welder who is to make a welded service line connection to a main must first perform an acceptable test weld under Section II of Appendix C of this Part as a requirement of the qualifying test.

1. - 2.b. Repeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1307. Limitations on Welders

A. - B. ...

C. A welder qualified under §1507.A:

1. may not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless within the preceding six calendar months the welder has had one weld tested and found acceptable under Section 3 or 6 of API Standard 1104, except that a welder qualified under an earlier edition previously listed in Appendix A of this Part may weld but may not requalify under that earlier edition; and

2. may not weld on pipe to be operated at a pressure that produces a hoop stress of less than 20 percent of SMYS unless the welder is tested in accordance with Subsection D.1 of this Section or requalifies under Subsection D.1 or D.2 of this Section.

D. A welder qualified under §1305.B may not weld unless:

1. within the preceding 15 calendar months, but at least once each calendar year, the welder has requalified under §1305.B; or

2. within the preceding 7½ calendar months, but at least twice each calendar year, the welder has had:

a. a production weld cut out, tested, and found acceptable in accordance with the qualifying test; or

b. for welders who work only on service lines 2 inches or smaller in diameter, two sample welds tested and found acceptable in accordance with the test in Section III of Appendix C of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1315. Inspection and Test of Welds

A. - B.2. ...

C. The acceptability of a weld that is nondestructively tested or visually inspected is determined according to the standards in Section 6 of API Standard 1104. However, if a girth weld is unacceptable under those standards for a reason other than a crack, and if the Appendix to API Standard 1104 applies to the weld, the acceptability of the weld may be further determined under that Appendix.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1317. Nondestructive Testing

A. - D.3. ...

4. at pipeline tie-ins, including tie-ins of replacement sections, 100 percent.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

Chapter 15. Pipe Joining Requirements

§1509. Plastic Pipe

A. - C.2. ...

3. an electrofusion joint must be joined utilizing the equipment and techniques of the fittings' manufacturer or equipment and techniques shown, by testing joints to the requirements of §1511.A.1.c, to be at least equivalent to those of the fittings' manufacturer.

D. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:

§1511. Plastic Pipe; Qualifying Joining Procedures

A. - A.1.a. ...

b. in the case of thermosetting plastic pipe, paragraph 8.5 (Minimum Hydrostatic Burst Pressure) or paragraph 8.9 (Sustained Static Pressure Test) of ASTM D2517; or

c. in the case of electrofusion fittings for polyethylene pipe and tubing, paragraph 9.1 (Minimum Hydraulic Burst Pressure Test), paragraph 9.2 (Sustained Pressure Test), paragraph 9.3 (Tensile Strength Test), or paragraph 9.4 (Joint Integrity Tests) or ASTM Designation F1055;

2. - 3. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:445 (April 1994), LR 24:

Chapter 17. Transmission Line Construction **§1717. Protection from Hazards**

A. The operator must take all practicable steps to protect each transmission line or main from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or to sustain abnormal loads. In addition, the operator must take all practicable steps to protect offshore pipelines from damage by mud slides, water currents, hurricanes, ship anchors, and fishing operations.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:

§1719. Installation of Pipe in a Ditch

A. - B.2. ...

C. All offshore pipe in water at least 12 feet deep but not more than 200 feet deep, as measured from the mean low tide, except pipe in the Gulf of Mexico and its inlets under 15 feet of water, must be installed so that the top of the pipe is below the natural bottom unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means. Pipe in the Gulf of Mexico and its inlets under 15 feet of water must be installed so that the top of the pipe is 36 inches below the seabed for normal excavation or 18 inches for rock excavation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:

§1721. Installation of Plastic Pipe

A. Plastic pipe must be installed below ground level unless otherwise permitted by Subsection G of this Section.

B. - F. ...

G. Uncased plastic pipe may be temporarily installed above ground level under the following conditions:

1. the operator must be able to demonstrate that the cumulative aboveground exposure of the pipe does not exceed the manufacturer's recommended maximum period of exposure or two years, whichever is less.

2. the pipe either is located where damage by external forces is unlikely or is otherwise protected against such damage.

3. the pipe adequately resists exposure to ultraviolet light and high and low temperatures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1727. Cover

A. Except as provided in §1727.C, E, F and G, each buried transmission line must be installed with a minimum cover as follows:

B. - D.3. ...

E. Except as provided in §1727.C, all pipe installed in a navigable river, stream, or harbor must be installed with a minimum cover of 48 inches in soil or 24 inches in consolidated rock between the top of the pipe and the natural bottom.

F. All pipe installed offshore, except in the Gulf of Mexico and its inlets, under water not more than 200 feet deep, as measured from the mean low tide, must be installed as follows:

1. except as provided in §1727.C, pipe under water less than 12 feet deep, must be installed with a minimum cover of 36 inches in soil or eighteen inches in consolidated rock between the top of the pipe and the natural bottom.

2. pipe under water at least 12 feet deep must be installed so that the top of the pipe is below the natural bottom, unless the pipe is supported by stanchions, held in place by anchors or heavy concrete coating, or protected by an equivalent means.

G. All pipelines installed under water in the Gulf of Mexico and its inlets, as defined in §125, must be installed in accordance with §2712.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:

Chapter 19. Meters, Regulators, Service Lines and Valve Requirements

§1925. Service Lines: Plastic

A. Each plastic service line outside a building must be installed below ground level, except that:

1. it may be installed in accordance with §1721.G; and
2. it may terminate above ground level and outside the building, if:

a. the above ground level part of the plastic service line is protected against deterioration and external damage; and

b. the plastic service line is not used to support external loads.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§1931. Service Lines: Excess Flow Valve Performance Standards

A. Excess flow valves to be used on single residence service lines that operate continuously throughout the year at a pressure not less than 10 psig must be manufactured and tested by the manufacturer according to an industry

specification, or the manufacturer's written specification, to ensure that each valve will:

1. function properly up to the maximum operating pressure at which the valve is rated;
2. function properly at all temperatures reasonably expected in the operating environment of the service line;
3. at 10 psig:
 - a. close at, or not more than 50 percent above, the rated closure flow rate specified by the manufacturer; and
 - b. upon closure, reduce gas flow:
 - i. for an excess flow valve designed to allow pressure to equalize across the valve, to no more than 5 percent of the manufacturer's specified closure flow rate, up to a maximum of 20 cubic feet per hour; or
 - ii. for an excess flow valve designed to prevent equalization of pressure across the valve, to no more than 0.4 cubic feet per hour; and
4. not close when the pressure is less than the manufacturer's minimum specified operating pressure and the flow rate is below the manufacturer's minimum specified closure flow rate.

B. An excess flow valve must meet the applicable requirements of Chapters 7 and 11 of this Part.

C. An operator must mark or otherwise identify the presence of an excess flow valve in the service line.

D. An operator shall locate an excess flow valve as near as practical to the fitting connecting the service line to its source of gas supply.

E. An operator should not install an excess flow valve on a service line where the operator has prior experience with contaminants in the gas stream, where these contaminants could be expected to cause the excess flow valve to malfunction or where the excess flow valve would interfere with necessary operation and maintenance activities on the service, such as blowing liquids from the line.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 24:

Chapter 21. Corrosion Requirements

§2107. External Corrosion Control: Buried or Submerged Pipelines Installed after July 31, 1971

A. - A.1. ...

2. it must have a cathodic protection system designed to protect the pipeline in its entirety in accordance with this Chapter, installed and placed in operation within one year after completion of construction.

B. - E. ...

F. This Section does not apply to electrically isolated, metal alloy fittings in plastic pipelines, if:

1. for the size fitting to be used, an operator can show by tests, investigation, or experience in the area of application that adequate corrosion control is provided by alloy composition; and
2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§2127. Internal Corrosion Control: General

A. - B.3. ...

C. Gas containing more than 0.25 grain of hydrogen sulfide per 100 standard cubic feet (four parts per million) may not be stored in pipe-type or bottle-type holders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:446 (April 1994), LR 24:

§2137. Remedial Measures: Transmission Lines

A. - B. ...

C. Under §2137.A and B, the strength of pipe based on actual remaining wall thickness may be determined by the procedure in ASME/ANSI B31G or the procedure in AGA Pipeline Research Committee Project PR 3-805 (with RSTRENG disk). Both procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations prescribed in the procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§2143. Corrosion Control Records

A. Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

B. Each record or map required by Subsection A of this Section must be retained for as long as the pipeline remains in service.

C. Each operator shall maintain a record of each test, survey, or inspection required by this Subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least five years, except that records related to §§2117.A and E and 2127.B must be retained for as long as the pipeline remains in service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

Chapter 23. Test Requirements

§2313. Test Requirements for Plastic Pipelines

A. - B. ...

C. The test pressure must be at least 150 percent of the maximum operating pressure or 50 psig, whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under §917, at a temperature not less than the pipe temperature during the test.

D. During the test, the temperature of thermoplastic material may not be more than 38EC (100EF), or the temperature at which the material's long-term hydrostatic strength has been determined under the listed specification, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

Chapter 25. Uprating

§2503. General Requirements

A. - C. ...

D. Limitation on increase in maximum allowable operating pressure. Except as provided in §2505.C, a new maximum allowable operating pressure established under this Chapter may not exceed the maximum that would be allowed under this Part for a new segment of pipeline constructed of the same materials in the same location. However, when uprating a steel pipeline, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, the MAOP may be increased as provided in §2721.A.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

Chapter 27. General Operating Requirements

§2703. General Provisions

A. - B. ...

C. The administrator or the state agency that has submitted a current certification under the pipeline safety laws, (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 18:857 (August 1992), LR 21:821 (August 1995), LR 24:

§2707. Initial Determination of Class Location and Confirmation or Establishment of Maximum Allowable Operating Pressure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), repealed LR 24:

§2715. Damage Prevention Program

A. - B.1. ...

2. provide for general notification of the public in the vicinity of the pipeline and actual notification of the persons identified in Subsection B.1 of the following as often as needed to make them aware of the damage prevention program:

3. - 6.b. ...

C. A damage prevention program under this Section is not required for the following pipelines:

1. pipelines located offshore;

2. pipelines, other than those located offshore, in Class 2 or 3 locations until September 20, 1995;

3. - 4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§2721. Maximum Allowable Operating Pressure: Steel or Plastic Pipelines

A. Except as provided in Subsection C of this Section, no person may operate a segment of steel or plastic pipeline at a pressure that exceeds the lowest of the following:

1. the design pressure of the weakest element in the segment, determined in accordance with §§901 through 1165 of Part XIII. However, for steel pipe in pipelines being converted under §507 or uprated under Chapter 25 of this Part, if any variable necessary to determine the design pressure under the design formula (§905) is unknown, one of the following pressures is to be used as design pressure:

a. eighty percent of the first test pressure that produces yield under Section N5.0 of Appendix N of ASME B31.8, reduced by the appropriate factor in Subsection A.2.b of this Section; or

b. if the pipe is 324 mm (12¾ inches) or less in outside diameter and is not tested to yield under this Paragraph, 1,379 kPa (200 psig).

A.2. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§2725. Odorization of Gas

A. - C.3. ...

4. the combustible gas is hydrogen intended for use as a feedstock in a manufacturing process.

D. - G.6. ...

H. Quarterly Reports

1. Each operator shall conduct quarterly sampling of toxic or combustible gases to assure the proper concentration of odorant in accordance with this Section. Operators of master meter systems may comply with this requirement by:

a. receiving written verification from their gas source that the gas has the proper concentration of odorant; and

b. conducting periodic "sniff" tests at the extremities of the system to confirm that the gas contains odorant.

2. - 3. ...

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 21:823 (August 1995), LR 24:

Chapter 29. Maintenance Requirements

§2905. Transmission Lines: Patrolling

A. - B. ...

C. Methods of patrolling include walking, driving, flying or other appropriate means of traversing the right-of-way.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 20:447 (April 1994), LR 24:

§2909. Line Markers for Mains and Transmission Lines

A. - A.2. ...

B. Exceptions for buried pipelines. Line markers are not required for the following pipelines:

1. mains and transmission lines located offshore, or at crossings of or under waterways and other bodies of water;
2. mains in Class 3 or Class 4 locations where a damage prevention program is in effect under §2715;
3. transmission lines in Class 3 or 4 locations until March 20, 1996; or
4. transmission lines in Class 3 or 4 locations where placement of a line marker is impractical.

C. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§2911. Transmission Lines: Record Keeping

Each operator shall maintain the following records for transmission lines for the periods specified:

1. the date, location, and description of each repair made to pipe (including pipe-to-pipe connections) must be retained for as long as the pipe remains in service.
2. the date, location, and description of each repair made to parts of the pipeline system other than pipe must be retained for at least five years. However, repairs generated by patrols, surveys, inspections, or tests required by Chapters 27 and 29 of this Part must be retained in accordance with Subsection A.3 of this Section.

3. a record of each patrol, survey, inspection, and test required by Chapters 27 and 29 of this Part must be retained for at least five years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 24:

§2923. Distribution Systems: Patrolling, Leakage Surveys and Procedures

A. ...

1. ...

2. mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled:

- a. in business districts, at intervals not exceeding 4½ months, but at least four times each calendar year; and
- b. outside business districts, at intervals not exceeding 7½ months, but at least twice each calendar year.

B. - B.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 9:217 (April 1983), amended LR 10:503 (July 1984), LR 21:823 (August 1995), LR 24:

In accordance with the laws of the state of Louisiana, and with reference to the provisions of Title 30 of the Louisiana Revised Statutes of 1950, a public hearing will be held in the Conservation Auditorium, First Floor, State Land and Natural Resource Building, 625 North Fourth Street, Baton Rouge, LA at 9 a.m., April 27, 1998.

At such hearing, the commissioner of Conservation will consider evidence relative to the proposed amendments to the rules for safety standards for the transportation of natural and other gas by pipeline.

The proposed rules represent the views of the commissioner as of this date; however, the commissioner reserves the right to make additions or amendments prior to final adoption.

Comments and views regarding the proposed rules should be directed in written form to be received not later than 5 p.m., April 24, 1998. Oral comments will be received at the hearing but should be brief and not cover the entire matters contained in the written comments. If accommodations are required under the Americans with Disabilities Act, contact the Pipeline Division at (504)342-5516 within 10 working days of the hearing date. Direct comments to Warren A. Fleet, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. Reference Docket Number PL 98-025 when making inquiries about this proposed rule.

Warren A. Fleet
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Natural Gas Pipeline Safety

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no increase in implementation cost or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed amendments will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed amendments will not have any costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed amendments will not have any effect on competition and employment.

Mariano G. Hinojosa
Director of Pipelines
9803#060

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Natural Resources Office of Conservation Pipeline Division

Hazardous Liquid Safety Standards
(LAC 33:V.30107, 30129, 30259, 30269, and 30300)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., Department of Natural Resources, Office of Conservation, Pipeline Division hereby proposes to amend the hazardous liquid regulations.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 3. Natural Resources

Chapter 301. Transportation of Hazardous Liquids by Pipeline

Subchapter A. General

§30107. Matter Incorporated by Reference

A. - B.5. ...

6. American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428.

C. The full title for the publications incorporated by reference in this Part are as follows. Number in parenthesis indicated applicable editions:

1. American Gas Association (AGA): AGA Pipeline Research Committee, Project PR-3-805, *A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe* (December 1989). The RSTRENG program may be used for calculating remaining strength.

2. American Petroleum Institute (API):

a. API Specification 5L *Specification for Line Pipe* (41st ed. 1995);

b. API Specification 6D *Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves)* (21st ed. 1994);

c. API Specification 1104 *Welding of Pipelines and Related Facilities* (18th ed. 1994).

3. American Society of Mechanical Engineers (ASME):

a. ASME/ANSI B16.9 *Factory-Made Wrought Steel Butt Welding Fittings* (1993);

b. ASME/ANSI B31.4 *Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols* (1992 ed. with 1994 Addenda);

c. ASME/ANSI B31.8 *Gas Transmission and Distribution Piping Systems* (1995);

d. ASME/ANSI B31G *Manual for Determining the Remaining Strength of Corroded Pipelines* (1991);

e. Boiler and Pressure Vessel Code, Section VIII, Division 1 *Pressure Vessels* (1995 with Addenda);

f. ASME Boiler and Pressure Vessel Code, Section IX *Welding and Brazing Qualifications* (1995 with Addenda).

4. Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS):

a. MSS SP-75 *Specification for High Test Wrought Butt Welding Fittings* (1993).

b. [Reserved]

5. American Society for Testing and Materials (ASTM):

a. ASTM Designation: A 53 *Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated Welded and Seamless* (A 53-94);

b. ASTM Designation: A 106 *Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service* (A 106-94);

c. ASTM Designation: A 333/A 333M *Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service* (A 333/A 333M-94);

d. ASTM Designation: A 381 *Standard Specification for Metal-Arc-Welded Steel Pipe for Use With High Pressure Transmission Systems* (A 381-93);

e. ASTM Designation: A 671 *Standard Specification for Electric-Fusion-Welded Steel Pipe for Atmospheric and Lower Temperatures* (A 671-94);

f. ASTM Designation: A 672 *Standard Specification for Electric-Fusion-Welded Steel Pipe for High-Pressure Service at Moderate Temperatures* (A 672-94);

g. ASTM Designation: A 691 *Standard Specification for Carbon and Alloy Steel Pipe Electric-Fusion-Welded for High-Pressure Service at High Temperatures* (A 691-93).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:439 (1994), LR 21:815 (August 1995), LR 24:

Subchapter B. Reporting Accidents and Safety-Related Conditions

§30129. Addressee for Written Reports

Each written report required by this Subchapter must be made to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 2335, 400 Seventh Street SW, Washington, D.C. 20590. However, accident reports for intrastate pipelines subject to the jurisdiction of a state agency pursuant to a certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) may be submitted in duplicate to that state agency if the regulations of that agency require submission of these reports and provide for further transmittal of one copy within 10 days of receipt to the Information Resources Manager. Safety-related condition reports required by §30133 for intrastate pipelines must be submitted concurrently to the state agency, and if that agency acts as an agent of the secretary with respect to interstate pipelines, safety related condition reports for these pipelines must be submitted concurrently to that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:863 (August 1992), LR 20:440 (1994), amended LR 24:

Subchapter F. Operation and Maintenance
§30259. Procedural Manual for Operations, Maintenance, and Emergencies

* * *

B. Amendments. The administrator or the state agency that has submitted a current certification under the pipeline safety laws (49 U.S.C. 60101 et seq.) with respect to the pipeline facility governed by an operator's plans and procedures may, after notice and opportunity for hearing as provided in 49 CFR 190.237 or the relevant state procedures, require the operator to amend its plans and procedures as necessary to provide a reasonable level of safety.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:864 (August 1992), LR 21:819 (August 1995), LR 24:

§30269. Line Markers

A. - 1. ...

2. The marker must state at least the following on a background of sharply contrasting color:

a. the word Warning, Caution, or Danger followed by the words Petroleum (or the name of the hazardous liquid transported) Pipeline, or Carbon Dioxide Pipeline, all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch high with an approximate stroke of one-quarter inch;

b. the name of the operator and a telephone number (including area code) where the operator can be reached at all times.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 18:865 (August 1992), LR 24:

Chapter 303. Hazardous Liquid Pipelines Enforcement
§30300. Damage Prevention Program

A. After September 20, 1995, and except for pipelines listed in Subsection C of this Section, each operator of a buried pipeline shall carry out, in accordance with this Section, a written program to prevent damage to that pipeline by excavation activities. For the purpose of this Section, excavation activities include excavation, blasting, boring, tunneling, backfilling, the removal of above ground structures by either explosive or mechanical means and other earth moving operations. An operator may comply with any of the requirements of Subsection B of this Section through participation in a public service program, such as a one-call system, but such participation does not relieve the operator of responsibility for compliance with this Section.

B. The damage prevention program required by Subsection A of this Section must, at a minimum:

1. include the identity, on a current basis, of persons who normally engage in excavation activities in the area in which the pipeline is located;

2. provide for notification of the public in the vicinity of the pipeline and actual notification of the persons identified in

Subsection B.1 of this Section of the following, as often as needed to make them aware of the damage prevention program:

a. the program's existence and purpose; and

b. how to learn the location of underground pipelines before excavation activities are begun;

3. provide means of receiving and recording notification of planned excavation activities;

4. if the operator has buried pipelines in the area of excavation activity, provide for actual notification of persons who give notice of their intent to excavate of the type of temporary marking to be provided and how to identify the markings;

5. provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins.

6. provide as follows for inspection of pipelines that an operator has reason to believe could be damaged by excavation activities:

a. the inspection must be done as frequently as necessary during and after the activities to verify the integrity of the pipeline; and

b. in the case of blasting, any inspection must include leakage surveys.

C. A damage prevention program under this Section is not required for the following pipelines:

1. pipelines located offshore;

2. pipelines to which access is physically controlled by the operator.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 24:

Comments and views regarding these proposed rules and regulations will be received until 5 p.m., April 24, 1998. Direct comments in writing to Warren Fleet, Commissioner of Conservation, Box 94275, Baton Rouge, LA 70804-9275. Reference this proposed rule as Docket Number PL 98-026.

A public hearing will be held at 9 a.m., April 27, 1998, in the Conservation Auditorium, First Floor, State Land and Natural Resources Building, 625 North Fourth Street, Baton Rouge, LA. If accommodations are required under the Americans with Disabilities Act, contact the Pipeline Division at (504) 342-5516 within 10 days of the hearing date.

Warren A. Fleet
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hazardous Liquid Safety Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no increase in implementation costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amendments will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amendments will not have any costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed amendments will not have any effect on competition and employment.

Mariano G. Hinojosa
Director of Pipelines
9803#061

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Public Safety and Corrections
Board of Pardons**

Clemency Filing and Processing
(LAC 22:V.Chapter 1)

In accordance with the provisions of R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Public Safety and Corrections, Board of Pardons hereby gives notice of its intent to amend rules and procedures relative to processing requests for clemency consideration.

**Title 22
CORRECTIONS, CRIMINAL JUSTICE
AND LAW ENFORCEMENT
Part V. Board of Pardons**

Chapter 1. Applications

§101. General

A. Any completed application will be considered for hearing by the board on the first Tuesday of each month. Should the first Tuesday fall on a legal holiday, the board will meet the following Tuesday. The board shall also meet at the discretion of the chairman to transact such other business as deemed necessary.

B. Applications must be received in the Board of Pardons office by the fifteenth of the month to be placed on the docket for consideration the following month.

C. Four members of the board shall constitute a quorum for the transaction of business, and all actions of the board shall require the favorable vote of at least four members of the board.

D. Any offender sentenced to death shall submit an application within one year from the date of the direct appeal denial.

E. Any offender sentenced to life may not apply until he has served 15 years from the date of sentence, unless he has sufficient evidence which would have caused him to have been found not guilty.

F. No application will be considered by the board until it deems the application to be complete in accordance with the following rules and procedures in Chapter 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.1 and 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:

§103. Filing Procedure

A. All Applicants

1. Every application must be submitted on the form approved by the Board of Pardons and must contain the following information:

- a. name of applicant;
- b. prison number [Department of Corrections (DOC) number];
- c. date of birth;
- d. race/sex;
- e. education (highest grade completed);
- f. age at time of offense;
- g. present age;
- h. offender class;
- i. place of incarceration (incarcerated applicant only);
- j. parish of conviction/judicial district/court docket number;
- k. offense(s) charged, convicted of or plead to;
- l. parish where offense(s) committed;
- m. date of sentence;
- n. length of sentence;
- o. time served;
- p. prior parole and/or probation;
- q. when and how parole or probation completed;
- r. prior clemency hearing/recommendation/approval;
- s. reason for requesting clemency;
- t. relief requested and narrative detailing the events surrounding the offense;

u. institutional disciplinary reports (incarcerated applicants only); total disciplinary reports, number within the last 12 months; nature and date of last violation; and custody status.

2. The application shall be signed and dated by applicant and shall contain a prison or mailing address and home address.

3. An application must be completed. If any required information does not apply, the response should be "NA."

B. In addition to the information submitted by application, the following required documents must be attached as they apply to each applicant:

1. Incarcerated Applicants. Any applicant presently confined in any institution must attach a current master prison record and time computation/jail credit worksheet and have the signature of a classification officer verifying the conduct of the applicant as set out in §103.A.1.u and a copy of conduct report. Applicants sentenced to death must attach proof of direct appeal denial.

2. Parolees. Applicants presently under parole supervision or who have completed parole supervision must attach a copy of their master prison record or parole certificate.

3. Probationers. Applicants presently under probation supervision or who have completed probationary period must attach a certified copy of sentencing minutes or copy of automatic first offender pardon.

4. First Offender Pardons [R.S. 15:572 (B)]. Applicants who have received an Automatic First Offender Pardon must attach a copy of the Automatic First Offender Pardon.

C. No additional information or documents may be submitted until applicant has been notified that he/she will be given a hearing unless applicant has a life sentence and has served less than 15 years and has documentation proving innocence. The Board of Pardons will not be responsible for items submitted prior to notification that a hearing will be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:

§105. Discretionary Powers of the Board

A.1. The Board of Pardons, at its discretion, may deny any applicant a hearing for any of the following reasons:

- a. serious nature of the offense;
- b. insufficient time served on sentence;
- c. insufficient time after release;
- d. proximity of parole/good time date;
- e. institutional disciplinary reports;
- f. probation/parole—unsatisfactory/violated;
- g. past criminal record; or
- h. any other factor determined by the board.

2. However, nothing in Chapter 1 shall prevent the board from hearing any case.

B. Any applicant denied under Chapter 1 shall be notified, in writing, of the reason(s) for denial and thereafter may file a new application two years from date of the letter of denial. Any applicant with a life sentence denied after August 15, 1997 may reapply six years after the initial denial; three years after the subsequent denial; and every two years thereafter.

C. Any fraudulent documents or information submitted by applicant will result in an automatic denial by the board and no new application will be accepted until four years have elapsed from the date of letter of denial. Any lifer denied because of fraudulent documents may reapply 10 years from the date of letter of initial denial; seven years if subsequent denial; and six years for denials thereafter.

D. In any matters not specifically covered by LAC 22:V.Chapter 1, the board shall have discretionary powers to act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:

§107. Contact with the Board of Pardons

A. Contact with the Board of Pardons or any member is prohibited except by appearing/testifying at a public hearing or by written letter addressed to the Board of Pardons.

B. If a board member is improperly contacted, he/she must immediately notify the individual that the contact is illegal. The letter must be accompanied by a copy of R.S.15:573.1, and the contact must be reported to the other board members.

C. Any prohibited contact after an individual has been informed of the prohibition as provided in §107.B shall be

fined not more than \$500 or imprisoned for not more than six months or both.

D. All letters in favor of pardon, clemency, or commutation of sentence are subject to public inspection. Exceptions to §107 are:

1. letters from any victim of a crime committed by the applicant being considered for pardon, clemency, or commutation of sentence, or any person writing on behalf of the victim;

2. any letters written in opposition to pardon, clemency, or commutation of sentence.

E. All letters written by elected or appointed public officials in favor of or opposition to pardon, clemency, or commutation of sentence received after August 15, 1997 are subject to public inspection and shall be recorded in a central register maintained by the board. The register shall contain the name of the individual whose pardon, clemency, or commutation of sentence is subject of the letter, the name of the public official who is the author of the letter and the date the letter was received by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:573.1, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1062 (December 1990), amended LR 24:

§109. Hearing Granted

A. After notice to an applicant that a hearing has been granted the applicant must provide the Board of Pardons office with proof of advertisement within 90 days from the date of notice to grant a hearing. Advertisement must be published in the official journal of the parish where the offense occurred. This ad must state:

"I, (applicant's name), DOC Number, have applied for clemency"

and must be published for three days within a 30-day period without cost to the Department of Public Safety and Corrections, Corrections Services, Board of Pardons.

B. Applicant may submit additional information, (e.g., letters of recommendation and copies of certificates of achievement and employment/residence agreement).

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4, 15:574.12 and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:

§111. Notice of Public Hearing Dates

A. After receipt of all documents required by §§103 and 109.A and the clemency investigation from the appropriate probation and parole district, the board shall set the matter for public hearing.

B. At least 30 days prior to public hearing date, the board shall give written notice of the date, time, and place to the following:

1. the district attorney and sheriff of the parish in which the applicant was convicted; and, in Orleans Parish, the superintendent of police;

2. the applicant;

3. the victim who has been physically or psychologically injured by the applicant (if convicted of that offense), and the victim's spouse or next of kin, unless the injured victim's

spouse or next of kin advises the board, in writing, that such notification is not desired;

4. the spouse or next of kin of a deceased victim when the offender responsible for the death is the applicant (if convicted of that offense), unless the spouse or next of kin advises the board, in writing, that such notification is not desired;

5. the Crime Victims Services Bureau of the Department of Public Safety and Corrections; and

6. any other interested person who notifies the Board of Pardons, in writing, giving name and return address.

C. The district attorney, injured victim, spouse, or next of kin, and any other persons who desire to do so shall be given a reasonable opportunity to attend the hearing. The district attorney or his representative, victim, victim's family, and a victim advocacy group, may appear before the Board of Pardons by means of telephone communication from the office of the local district attorney.

D. Only three persons in favor, to include the applicant, and three in opposition, to include the victim/victim's family member, will be allowed to speak at the hearing. However, there is no limit on written correspondence in favor of and/or opposition to the applicant's request.

E. If an applicant is released from custody and/or supervision prior to public hearing date, the case will be closed without notice to the applicant. Applicant may reapply two years from the date of release.

F. Applicant's failure to attend and/or notify the Board of Pardons office of his/her inability to attend the hearing will result in an automatic denial. The applicant may reapply two years from the date of scheduled hearing. Lifers who fail to attend and/or advise of inability to attend may reapply in six years if it is his/her initial hearing, three years if subsequent hearing date, and two years thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4 and 15:574.12(G) and R.S. 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Correction, Board of Pardons, LR 16:1063 (December 1990), amended LR 24:

§113. Denials by Board after Public Hearing

A. The board shall notify the applicant of the denial. Applicant may submit a new application two years after the date of letter of denial. Any applicant serving life may apply six years after initial denial, three years after subsequent denial and thereafter every two years.

B. The board shall terminate hearing should the applicant become disorderly, threatening, or insolent. Any hearing terminated due to applicant's disorderly, threatening, or insolent behavior is an automatic denial and the applicant may reapply four years from the date of hearing except those serving life sentence who may reapply 10 years from the date of initial hearing termination, seven years from the subsequent hearing termination, and six years from hearing termination thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:

§115. Denial/No Action Taken by Governor after Favorable Recommendation

A. The board shall notify the applicant after its receipt of notification that favorable recommendation was denied or no action was taken by the governor. Applicant may submit a new application one year from the date of the letter of denial or notice of no action.

B. An applicant who has been paroled, released under good time parole supervision, or released from sentence within one year of the date of letter of denial or notice of no action by the governor, may submit a new application two years after the date of release from confinement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:

§117. Governor Grants

The Office of the Governor will notify the applicant if any clemency is granted. Applicant may submit a new application for additional relief four years from the date of notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15.572.4

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Pardons, LR 24:

Interested persons may submit written comments to Sally L. McKissack, Chairman, Louisiana Board of Pardons, Box 94304, Baton Rouge, LA 70804-9304. Comments will be accepted through the close of business, 4:30 p.m., April 1, 1998.

Sally L. McKissack
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Clemency Filing and Processing

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of proposed rules and procedures will have no immediate cost/savings to state or local governmental units in that current staff will absorb the additional workload. An additional clerical position has been requested through the normal budget process and will increase the number of classified positions from two to three with an increase in salaries and related benefits. Cost associated with the requested position is estimated at \$11,990 in salaries and \$2,158 in related benefits.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units associated with these rules.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups associated with these rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Proposed rules will not effect competition and employment.

Richard Stalder
Secretary
9803#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Family Independence Work Program
(FIND Work)—Organization, Activities
and Services (LAC 67:III.2901 and 2913)

The Department of Social Services, Office of Family Support proposes to amend the *Louisiana Administrative Code*, Title 67, Part III, Subpart 5, Family Independence Work Program, known in Louisiana as "FIND Work" and formerly known as "Project Independence."

Under the authority of Public Law 104-193 and R.S. 46:231.10, the agency proposes to change the amount allowed per participant per fiscal year for items deemed necessary to facilitate a participant's entry into employment. The funds used to provide such items has been set at a maximum of \$100 per participant per fiscal year since October 1990. This proposed rule will increase the amount allowed to \$150 per participant per fiscal year. Section 2901 is also being updated as the authority to administer the program has changed.

**Title 67
SOCIAL SERVICES
Part III. Office of Family Support
Subpart 5. Family Independence Work Program (FIND Work)
Chapter 29. Organization
Subchapter A. Designation and Authority of State Agency**

§2901. General Authority

The Family Independence Work Program (FIND Work) is established in accordance with state and federal laws to assist recipients of Family Independence Temporary Assistance (FITAP) to become self-sufficient by providing needed employment-related activities and support services.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Eligibility Determinations, LR 16:626 (July 1990), amended by the Department of Social Services, Office of Family Support, LR 19:504 (April 1993), LR 24:

Subchapter C. Activities and Services

§2913. Support Services

A. - 3.a. ...

b. Payments not to exceed a combined total of \$150 per fiscal year may be made for certain costs deemed necessary such as eyeglasses, hearing aids and other small medical appliances, uniforms, tools and training materials, medical exam not provided by Medicaid or other resource, placement

test fees and other course prerequisite costs, safety equipment and transportation related expenses.

c. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and R.S. 46:231.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 17:309 (March 1991), amended LR 17:388 (April 1991), LR 18:244 (March 1992), LR 18:687 (July 1992), LR 18:748 (July 1992), LR 18:1268 (November 1992), LR 19:504 (April 1993), LR 20:793 (July 1994), LR 23:451 (April 1997), amended by the Office of the Secretary and Office of Family Support, LR 24:356 (February 1998), amended by the Office of Family Support, LR 24:

Interested persons may submit written comments by April 28, 1998 to Vera W. Bakes, Assistant Secretary, Office of Family Support, Box 94065, Baton Rouge, LA, 70804-9065. She is responsible for responding to inquiries regarding this proposed rule.

A public hearing on the proposed rule will be held on April 28, 1998 at 9 a.m. at the Department of Social Services, Second Floor Auditorium, 755 Third Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the Bureau of Appeals at least seven working days in advance of the hearing. For assistance, call (504) 342-4120 (Voice and TDD).

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: FIND Work Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation of this rule will increase state agency costs for a FIND Work participant's "other supportive services" for fiscal years 98/99, 99/00, and 00/01 by approximately \$105,437. These funds are available from Louisiana's Temporary Assistance to Needy Families (TANF) Block Grant. Policy and forms revisions will also be required and these costs will be within the normal budget constraints. There are no anticipated costs or savings to local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Each FIND Work participant will be allowed \$150 per state fiscal year for "other supportive services" such as uniforms, tools and safety equipment.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed increase in other supportive services may help to facilitate a participant's entry into employment.

Vera W. Blakes
Assistant Secretary
9803#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Social Services Office of the Secretary Bureau of Licensing

Class "A" Child Day Care (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. 46:1401-1425.

These standards are being revised to supersede any previous regulations heretofore published.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 53. Day Care Centers

(Editor's Note: Rules promulgated in the April 20, 1994 *Louisiana Register*, as §§5301-5325 are being repealed in their entirety and replaced by the following §§5301-5329.)

§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. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5303. Authority

A. Legislative Provisions

1. The state of Louisiana, Department of Social Services, is charged with the 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. 46:1401-1425 (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, Act 286 of

1985, and Act 1463 of 1997) 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 caregiver 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 \$75 nor more than \$250 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. 46:1401-1425).

2. Whenever the Department is advised or has reason to believe that any person, agency or organization is operating a nonexempt day care facility without a license or provisional license, the Department shall make an investigation to ascertain the facts.

3. Whenever the Department is advised or has reason to believe that any person, agency or organization is operating in violation of the Child Day Care Center Class "A" Minimum Standards, the Department shall complete a complaint investigation. All reports of mistreatment of children coming to the attention of the Department of Social Services will be investigated.

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 three functions:

a. to develop new minimum standards for licensure of Class "A" facilities ("New" meaning the first regulations written after Act 286 of 1985.);

b. to review and consult with the Department of Social Services on all revisions written by the Bureau of Licensing after the initial regulations and to review all standards, rules, and regulations for Class "A" facilities at least every three years;

c. to advise and consult with the Department of Social Services on matters pertaining to decisions to deny, revoke or refuse a Class "A" license.

2. The Committee is composed of 19 voting members, appointed by the Governor, including provider and consumer

representation from all types of child care services, the educational and professional community and the Director of the Bureau of Licensing who serves as an ex-officio member.

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 are 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. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5305. Definitions

Anniversary—center's licensure year, determined by the month in which the initial license was issued to the center and in which the license is eligible for renewal each year.

Bureau—the Bureau of Licensing of the Department of Social Services.

Capacity—the number of children the center is licensed to care for at any given time based on usable indoor and outdoor square footage as determined by the Bureau.

Center—a child day care center/facility as defined in §5303.A.2.

Center Staff—all full or part-time employees and volunteers who perform routine services for the day care center and have direct or indirect contact with children at the center. Center staff includes the Director, child care staff, and any other employees of the center such as the cook, housekeeper, driver, substitutes, and volunteers.

Change of Location—center moves from one location to another.

Change of Ownership—transfer of ownership to someone other than the owner listed on the initial application. Ownership of the center business, not the building, determines the owner. Sale of a corporation also constitutes a change of ownership.

Clock Hour—involvement or participation in a learning situation for 60 minutes.

Contract Person—a third party with whom parents have a written agreement.

Department—the Department of Social Services of the State of Louisiana.

Direct Supervision—visual contact at all times.

Director:

1. *Executive Director*—the owner or administrator. If on-site and responsible for the management, administration and supervision of the center, the Executive Director is also the Center Director. If not on-site or not functioning as Center Director, the Executive Director maintains responsibility for the management, administration and supervision of the center(s) through a Center Director or Director Designee.

2. *Center Director*—the on-site staff who is responsible for the day-to-day operation of the center as recorded with the Bureau of Licensing. For the purpose of these regulations, the term *Director* means Center Director or Director Designee, if applicable.

3. *Director Designee*—the on-site individual appointed by the Director when the Director is not an on-site employee at the licensed location. This individual shall meet Director qualifications.

Discipline—the ongoing positive process of helping children develop inner control so that they can manage their own behavior in an appropriate and acceptable manner by using corrective action to change the inappropriate behavior.

Documentation—written evidence or proof, signed and dated by parties involved (Director, parents, staff, etc.), on site and available for review.

Existing Center—a center with a valid license prior to (Effective date to be determined upon promulgation of final rule).

Group (or Unit)—the number of children who share a common indoor play space and relate to one primary staff (who may be assisted by others) on a consistent or daily basis.

Montessori School—for licensing purposes, a facility accredited as a Montessori School by the Board of Elementary and Secondary Education under R.S. 17:3401 et seq.

Owner or Provider—a public or private organization or individual who delivers day care service for children.

Parent—the parent(s) or guardian with legal custody of the child.

Posted—prominently displayed in a conspicuous location in an area accessible to and regularly used by parents.

Shall or Must—mandatory.

Should—urged, advised or may.

Staff-in-Charge—the on-site staff appointed by the Director as responsible for supervising the operation of the center during the temporary absence of the Director.

Temporary Absence—absence for errands, conferences, etc.

Volunteer—nonpaid staff in one of the following categories:

1. *Nonessential Volunteer*—an individual who is not necessary to the operation of the center and is not counted in the child/staff ratio, but works in the center on a regular basis.

2. *Essential Volunteer*—an individual who is necessary to the operation of the center, is considered staff and is counted in the child/staff ratio.

3. *Luxury Volunteer*—an individual who observes the operation of the center for learning purposes or volunteers his/her time to assist the center and has no direct control over children (never left alone with children), is not necessary to the operation of the center and works on an irregular basis.

Water Activity—a water-related activity where children, under adult supervision, are in, on, near or immersed in a body of water such as swimming pools, wading pools, water parks, lakes, rivers or beaches, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5307. Procedures

A. Initial Application

1. Anyone applying for a license after the effective date of these standards shall meet all of the requirements herein.

2. Before beginning operation, it is mandatory to obtain a license from the Department of Social Services, Bureau of Licensing. To do so, the following steps should be followed.

a. Prior to purchasing, leasing, etc., carefully check all local zoning and building ordinances in the area where you are planning to locate. Standards from Office of Public Health, Sanitarian Services; Office of the State Fire Marshal, Code Enforcement and Building Safety; and City Fire Department (if applicable) should be obtained.

b. After securing building, obtain an application form issued by:

Department of Social Services
Bureau of Licensing
P. O. Box 3078
Baton Rouge, LA 70821-3078
Phone: (504) 922-0015
FAX: (504) 922-0014

c. The completed application shall indicate Class "A" license. Anyone applying for State or Federal funding shall apply for a 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.

d. 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 center:

- i. Office of Public Health, Sanitarian Services;
- ii. Office of the State Fire Marshal, Code Enforcement and Building Safety;
- iii. Office of City Fire Department(if applicable);
- iv. Zoning Department(if applicable);
- v. City or Parish Building Permit Office.

e. After the application has been received by the Bureau of Licensing, the Bureau will request 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. However, it is the applicant's responsibility to obtain these inspections and approvals. A Licensing Specialist will visit the center to conduct a licensing survey.

f. A license will be issued on an initial application when the following items have been met and written verification is received by the Bureau of Licensing:

- i. fire approval (state and city, if applicable);
- ii. health approval;
- iii. zoning (if applicable);
- iv. full licensure fee paid;
- v. director meets qualifications;
- vi. three positive references on Director;
- vii. Licensure survey verifying substantial compliance.

3. When a center changes location, it is considered a new operation and a new application and fee for licensure shall be submitted. All items listed in §5307.A.2.f shall be

resubmitted, except references and Director qualifications if the Director remains the same.

4. When a center changes ownership, a new application and fee shall be submitted. All approvals listed in §5307.A.2.f shall be current. Documentation is required from the previous owner assuring change of ownership, i.e., letter from previous owner, copy of Bill of Sale or a lease agreement.

5. All new construction or renovation of a center requires approval from agencies listed in §5307.A.2.d and the Bureau of Licensing.

6. The Bureau is authorized to determine the period during which the license shall be effective. A license is valid for the period for which it is issued unless it is revoked due to center's failure to maintain compliance with minimum standards.

7. A license is not transferable to another person or location.

8. If a Director or member of his immediate family has had a previous license revoked, refused or denied, upon re-application, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists. A licensing survey will then be conducted to verify that the reasons for revocation, refusal, or denial have been corrected and the Director and/or center is in substantial compliance with all minimum standards.

B. Fees

1. An initial application fee of \$25 shall be submitted with all initial applications. This fee will be applied toward the total licensure fee which is due prior to licensure of center. This fee is to be paid by all initial and change of location providers. The full licensure fee shall be paid on all Changes of Ownership. All fees shall be paid by certified check or money order only and are nonrefundable.

2. Annual licensure fees are required prior to issuance or renewal of the license. License fee schedules (based on capacity) are listed below:

License Fee Schedules	
Capacity	Fee
15 or fewer	\$25
16 - 50	\$100
51 - 100	\$175
101 or more	\$250

3. Other Licensure Fees

a. Twenty-five dollar replacement fee for any center replacing a license when changes to the license are requested by the Director, i.e., change in capacity, name change, age range change. (There is no processing charge when the request coincides with regular renewal of license.)

b. Five-dollar processing fee for issuing a duplicate license with no changes.

C. Relicensing

1. The relicensing survey is similar to the original licensing survey. Documentation of previous 12 months' activity shall be available for review. The Director will have an opportunity to review the survey deficiencies (if any).

2. A license is issued for a period of up to one year based upon center's compliance with minimum standards. Before expiration of the license, reinspections by the Office of Public Health, Sanitarian Services; Office of the State Fire Marshal, Code Enforcement and Building Safety; City Fire (if applicable) and the Bureau of Licensing shall be required.

3. If the survey reveals that the center is not substantially meeting minimum requirements, a recommendation will be made that the license be revoked or not renewed.

4. The Bureau shall be notified prior to making changes which might have an effect upon the license, i.e., age range of children served, usage of indoor and outdoor space, Director, hours/months/days of operation, ownership, location, transportation, etc.

D. Denial, Revocation or Nonrenewal of License. An application for a license may be denied, or a license may be revoked, or renewal thereof denied, for any of the following reasons:

1. violation of any provision of R.S. 46:1401-1425 or failure to meet any of the minimum standards, rules, regulations or orders of the Department of Social Services promulgated thereunder;

2. cruelty or indifference to the welfare of the children;

3. conviction of a felony or any offense of a violent or sexual nature or any offense involving a juvenile victim, as shown by a certified copy of the record of the court of conviction, of the applicant:

a. or, if the applicant is a firm or corporation, any of its board members or officers;

b. or of the person designated to manage or supervise the center;

4. if the Director of the center is not reputable;

5. if the Director or a member of the staff is temperamentally or otherwise unsuited for the care of the children in the center;

6. history of noncompliance;

7. failure of the owner of the center to hire a qualified Director;

8. disapproval from any agency whose approval is required for licensure;

9. nonpayment of licensure fee and/or failure to submit application for renewal prior to the expiration of the current license;

10. any validated instance of corporal punishment, physical punishment, cruel, severe, or unusual punishment, physical or sexual abuse and/or neglect if the owner is responsible or if the employee who is responsible remains in the employment of the center;

11. the center is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure;

12. any act of fraud such as falsifying or altering documents required for licensure;

13. center refuses to allow the Bureau to perform mandated duties, i.e., denying entrance to the center, lack of cooperation for completion of duties, etc.

E. Appeal Procedure. If the license is refused, revoked or denied because the center does not meet minimum requirements for licensure, the procedure is as follows.

1. The Department of Social Services Bureau of Licensing, shall advise the Director by certified letter of the reasons for refusal, revocation or denial and right of appeal.

2. The Director 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, Bureau of Appeals, Box 2944, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 30 days of the Director's receipt of the above notification in §5307.E.1.

3. The Bureau of Appeals shall set a hearing to be held within 30 days after receipt of such a request.

4. An Appeals Hearing Officer shall conduct the hearing. Within 90 days after the date the appeal is filed, the Hearing Officer shall advise the appellant by certified letter of the decision, either affirming or reversing the original decision. If the appeal is denied, the center shall terminate operation immediately.

5. 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 center is located for injunctive relief.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5309. General Requirements

A. The Director shall be responsible for ensuring that minimum licensing requirements are met.

B. A current child day care license shall be on display, except for church affiliated centers (R.S. 46:1408(D)) that choose to keep the license on file and available upon request.

C. A center shall maintain in force at all times current commercial liability insurance for the operation of a center and vehicle (if transportation is provided) to ensure medical coverage for children in the event of accident or injury.

1. This policy shall extend coverage to any staff member who provides transportation for any child in the course and scope of his/her employment. The center is responsible for payment of medical expenses of a child injured while in center care. Parents shall not be required to waive the center's responsibility.

2. Documentation shall consist of the insurance policy or current binder that includes the name of the insurance company, policy number, period of coverage and explanation of the coverage.

D. A center shall in all respects meet the requirements of the state and local ordinances governing sanitation (Office of Public Health, Sanitarian Services). Thereafter, a yearly sanitation inspection and approval from the Office of Public Health, Sanitarian Services are required. Documentation of such approval shall be on file.

E. A center shall in all respects meet the requirements of the fire prevention and safety authorities who have jurisdiction over it, i.e., the Office of State Fire Marshal and City Fire Department (if applicable). Thereafter, a yearly safety inspection and approval from the Office of State Fire Marshal and City Fire Department (if applicable) are required. Documentation of such approval shall be on file.

F. A center shall in all respects meet the requirements of the local zoning ordinance, if applicable. Documentation of such approval shall be on file.

G. Injuries, accidents, illnesses or unusual occurrences in behavior shall be documented. At a minimum, documentation shall address who, what, when, where and how.

H. A daily attendance log for children, completed by the parent or center staff, including the time of arrival and departure of each child and the name of the person to whom the child was released shall be maintained.

I. A daily attendance log for staff to include the time of arrival and departure shall be maintained.

J. A center shall maintain a record of all field trips taken to include date and destination, list of passengers and method of transportation.

K. The center shall have an individual immediately available in case of emergency to ensure adequate child/staff ratios and supervision. The name and telephone number of the emergency person shall be posted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5311. Policies and Procedures Related to Children

A. Required Written Policies and Procedures

1. The center shall have written policies and procedures approved by the Director which address the following areas:

- a. admission;
- b. dismissal;
- c. medication;
- d. transportation;
- e. water activities;
- f. third party release;
- g. complaint procedure;
- h. open door policy;
- i. photographing children;
- j. discipline;
- k. abuse and/or neglect;
- l. nondiscrimination; and
- m. confidentiality.

2. The center shall also have a written description of its program, fees (if any), annual and daily schedule.

3. The center's written policies shall be available for review by parents, staff and state agencies.

B. Daily Program

1. There shall be a posted schedule of the day's plan of activities, allowing for flexibility and change. The program of activities shall be adhered to with reasonable closeness, but shall accommodate and have due regard for individual needs

and 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 shall be allowed for routines such as washing, lunch, rest, snacks and putting away toys. Active and quiet periods shall be alternated so as to guard against over stimulation of the child.

2. Children 5 years and younger shall have a daily rest period of at least one hour.

3. While awake, infants and toddlers shall not remain in a crib/baby bed, swing, highchair, carrier, playpen, etc. for more than 30 consecutive minutes.

C. Discipline. Each center shall establish a policy in regard to methods of discipline. This written, prominently posted policy shall clearly state all types of positive discipline that are used and the following methods of discipline that are prohibited.

1. 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. Any form of punishment that violates the spirit of this standard of discipline, even though it may not be specifically mentioned as forbidden, is prohibited.

2. No child or group of children shall be allowed to discipline another child.

3. When a child is removed from the group for disciplinary reasons, he/she shall never be out of the sight of a staff member.

4. No child shall be deprived of meals or snacks or any part thereof for disciplinary reasons.

D. Abuse and Neglect. As mandated reporters, all center staff shall report any suspected abuse and/or neglect of a child in accordance with R.S. 14:403 to the local Child Protection Agency. This statement as well as the local Child Protection Agency telephone number shall be posted.

E. Complaint Procedure. Parents shall be advised of the licensing authority of the Bureau and shall be given the current telephone number and address of the Bureau and advised that they may call or write the Bureau should they have significant, unresolved licensing complaints. The current telephone number and address of the Bureau shall be posted in a conspicuous location in an area accessible to parents.

F. Open Door Policy. Parents shall be informed that they are welcome to visit the center anytime during regular hours of operation as long as their child is enrolled. The written policy shall be posted.

G. Nondiscrimination. Discrimination by child day care centers on the basis of race, color, creed, sex, national origin, handicapping condition or ancestry is prohibited. The written policy shall be posted.

H. Confidentiality and Security of Files

1. The center shall have written procedures for the maintenance and security of children's records specifying who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released.

Records shall be the property of the center, and the director, as custodian, shall secure records against loss, tampering, or unauthorized use.

2. The center shall maintain the confidentiality of all children's records. Employees of the center shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly, or indirectly, to any unauthorized person.

3. The center shall obtain written, informed consent from the parent prior to releasing any information or photographs from which the child might be identified, except for authorized state and federal agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5313. Transportation

A. A center that provides transportation of children assumes additional responsibility and liability for the safety of the children.

B. Transportation Plan

1. If transportation is not provided, there shall be a written notice to that effect.

2. If transportation is provided, even on an irregular basis, the center shall have written policies that conform to §5313.C.1.a-m and a written transportation plan that includes the following:

- a. type of transportation provided, i.e., to and from home, to and from school, to and from swimming or dancing lessons, field trips, etc.;
- b. geographical areas served;
- c. time schedule of the services;
- d. Fees, if any, for transportation services.

C. Transportation Furnished by Center

1. When transportation is provided, the Director and center's written policies shall ensure that:

a. transportation arrangements conform to state laws, including seat belts and child restraints;

Note: For additional information regarding state laws, contact Office of Public Safety.

b. at least two staff, one of whom may be the driver, shall be in each vehicle unless the vehicle has a communication device and child/staff ratio is met in the vehicle;

c. at least one staff in each vehicle shall be currently certified in CPR and trained in pediatric first aid;

d. children are under the direct supervision of staff at all times. The driver or attendant shall not leave the children unattended in the vehicle at any time while transporting children;

e. each child shall board or leave the vehicle from the curb side of the street and/or shall be safely escorted across the street;

f. each child is delivered to a responsible person authorized in writing by the parent;

g. a designated staff person shall be present when the child is delivered to the center;

h. good order shall be maintained on the vehicle;

i. the driver shall check the vehicle at the completion of each trip to ensure that no child is left on the vehicle and all children were picked up and dropped off at the correct locations;

j. the vehicle shall be maintained in good repair;

k. the use of tobacco in any form, use of alcohol and possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited;

l. children shall not be transported in the back of a pickup truck;

m. the number of persons in a vehicle used to transport children shall not exceed the manufacturer's recommended capacity.

2. All drivers and vehicles shall be covered by liability insurance as required in §5309.C.

3. The driver shall hold a valid appropriate Louisiana driver's license.

4. Each driver or attendant shall be provided with a current master transportation list including each child's name, pick up and drop off locations and authorized persons to whom child may be released.

5. The driver or attendant shall maintain a daily attendance record.

6. The vehicle shall have evidence of a current safety inspection.

7. There shall be first aid supplies in the vehicle.

8. There shall be information in each vehicle identifying the name of the Director and the name, telephone number and address of the center for emergency situations.

D. Field Trips

1. When transportation is provided by the center (owned and nonowned vehicle), the procedures outlined in §5313.C shall be followed.

2. When transportation is provided by parents, the Director and center's written policies shall ensure that:

a. transportation arrangements conform to state laws including seat belts and child restraints;

b. the driver has a valid driver's license and is covered by liability insurance;

c. a planned route shall be provided to each driver and a copy maintained in the center;

d. there shall be information in the center and each vehicle listing the names of children and staff in each vehicle (going and returning);

e. there shall be information in each vehicle identifying the name of the Director and the name, telephone number and address of the center for emergency situations;

f. first aid supplies shall be provided during field trips;

g. the use of tobacco in any form, the use of alcohol and use or possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in any vehicle while transporting children is prohibited.

3. Whether transportation for field trips is provided by the center, parents, or an outside source, there shall be signed parental authorization for each child to leave the center and to be transported in the vehicle.

E. Transportation by Contract. When the center contracts with an outside source for transportation, there shall be an agreement on file signed and dated by the Director and a representative of the transportation agency stating that all rules for transportation shall be followed as stated in §5313.C. The center shall select a transportation agency with a good reputation and reliable drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5315. Admission of Children

A. Prior to admission, the Director, in consultation with the parent, shall determine that individual needs of each child can adequately be met by the center's program and facilities.

B. Admission of children shall include an interview with the parent or guardian to:

1. provide the center's written program and policies; the center shall have documentation that parents have reviewed or been given a written description of the center's program and policies;

2. secure necessary information about the child to include the following:

a. all information as required on the Child's Information Form (Mastercard);

b. an immunization record signed/stamped by a physician or Designee on each child, including school age children, verifying the child has had or is in the process of receiving all immunizations appropriate to his/her age as required by the Office of Public Health:

i. these documents shall be part of the child's records; when the child leaves the center, these documents shall be returned to the parent;

ii. if a parent chooses for his/her child not to receive immunizations for personal or religious reasons, documentation from the parent shall be on file;

3. obtain signed agreements between the center and the parent for each child giving permission to:

a. care for the child during the time he/she is in the center or on center-sponsored activities;

b. administer and/or secure emergency medical treatment;

c. release the child to any person(s) listed by the parent including the noncustodial parent(s), or any other child care facilities, transportation services, or contract person(s). A child shall never be released to anyone unless authorized in writing by the parent;

d. give medication and/or special medical procedures as specified in §5325.B.2, if applicable;

e. transport the child to and from home, to and from school and on center-sponsored field trips, etc., if applicable;

f. participate in any water activities, if applicable;

g. participate in off-site, "away from center" activities and field trips, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5317. Required Staff

A. Each center shall have a qualified Director who is an on-site employee at the licensed location and is responsible for planning, managing, and controlling the center's daily activities and ensuring that minimum licensing requirements are met. If the Director is responsible for more than one center, there shall be a Director Designee, who meets Director qualifications, responsible for the operation of the other center(s).

B. When the Director is not on the premises due to temporary absence, there shall be an individual appointed as Staff-in-Charge. This staff shall be given the authority to respond to emergencies, inspections/inspectors, and parental concerns.

C. If the number of children in care exceeds 42, the Director's duties shall consist only of performing administrative functions.

D. There shall be regularly employed staff who are capable of fulfilling job duties of the position to which they are assigned.

E. There shall be adequate provisions for cooking and housekeeping duties, except for those centers approved by the Office of Public Health, Sanitarian Services for having food service from an approved catering source. These duties shall not interfere with required supervision of children or required child/staff ratios.

F. If day and night care are offered, there shall be separate shifts of staff. No employee may work day and night shifts consecutively.

G. There shall be provisions for substitute staff who are qualified to fulfill duties of the position to which they are assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5319. Staff Qualifications

A. Director:

1. shall be at least 21 years of age;

2. shall have documentation of at least one of the following upon hire date as Director:

a. diploma from a post secondary technical early childhood education 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 Bureau;

b. three years' of experience as a director or staff in a licensed child care center, or comparable setting, subject to approval by the Bureau; plus six credit hours in child care, child development, or early childhood education. Thirty "clock hours" approved by the Bureau may be substituted for each three credit hours. Up to three credit hours or 15 clock hours may be in Management/Administration education;

c. 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 Bureau;

d. 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 Bureau;

e. 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 Bureau;

f. a National Administrator Credential as awarded by the National Child Care Association, and two years' experience in a licensed child care center, or comparable setting, subject to approval by the Bureau;

3. documentation of the above qualifications shall be available at the center;

4. documentation of appointment and qualifications of Director Designee, if applicable, shall be available at the center;

5. directors hired prior to the effective date of these regulations shall come into compliance with these requirements within one year.

B. Child Care Staff

1. Child care staff shall 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 direct supervision of a qualified adult staff. No one under age 16 shall be used as child care staff.

2. Staff-in-Charge shall be at least 21 years of age.

C. All Center Staff

1. Center staff shall be known in the community to be of good reputation as verified by documented reference checks. There shall be on file three letters of reference or documentation, signed and dated, that at least three nonrelated reference checks have been contacted by the Director prior to employment.

2. A criminal record check shall be requested by the Director prior to the employment of any center staff.

a. A criminal record clearance is not transferrable from one employer to another.

b. No staff with a criminal conviction of a felony or any offense of a violent or sexual nature or any offense involving a juvenile victim shall be employed in a Class "A" day care center unless approved in writing by a District Judge of the parish and the local District Attorney. A copy of this approval must remain on file in the center and a copy must be submitted to the Bureau.

3. Health Requirements

a. Upon offer of employment all center staff shall be required to obtain a statement of good health signed by a

physician or designee. Health statement dated within three months prior to offer of employment or within one month after date of employment is acceptable. Health statement is required every three years.

b. At the time of employment, the individual shall have no evidence of active tuberculosis. Tuberculin test result dated within one year prior to offer of employment is acceptable. Staff shall be retested on time schedule as mandated by the Office of Public Health. For additional requirements, refer to Chapter II of State Sanitary Code.

c. Center staff shall not remain at work if he/she has any sign of a contagious disease as stated in §5325.B.5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5321. Staff Development

A. Required Written Policies. The Director shall plan and implement written policies relating to staff development. The written policies shall describe plans for orientation, in-service training and annual continuing education.

B. Orientation Training

1. Within one week of employment and prior to having sole responsibility for a group of children, each staff member, including substitutes, shall receive orientation training to include:

a. center policies and practices including health and safety procedures;

b. emergency and evacuation plan;

c. supervision of children;

d. discipline policy;

e. job description;

f. individual needs of the children enrolled;

g. detecting and reporting child abuse and neglect;

h. current State Class "A" Minimum Licensing Standards;

i. confidentiality of information regarding children and their families.

2. This training shall be followed by four days of supervised work with children.

3. Documentation shall consist of a statement/checklist in the employee record signed and dated by the employee and Director attesting to having received such orientation training and four days of supervised work with children.

C. In-Service Training

1. The Director shall conduct, at a minimum, one staff training session each three-month quarter. Documentation shall consist of dated minutes of the training sessions including training topics and signatures of all staff in attendance.

2. All staff, including substitutes, shall annually review center policies and practices, health and safety procedures, emergency and evacuation plan, supervision of children, discipline policy, job description, individual needs of the children enrolled, current State Class "A" Minimum Licensing Standards, detecting and reporting child abuse and neglect, and

confidentiality of information regarding children and their families. Documentation shall consist of a signed and dated statement/checklist identifying that all required topics were reviewed.

D. Continuing Education. The Director shall provide opportunities for continuing education of staff through attendance at child care workshops or conferences to enhance the ability of staff to meet the individual needs of all children enrolled.

1. The child care staff shall obtain 12 clock hours of training per center's anniversary year in job-related subject areas. This training shall be approved by the Department of Social Services.

2. Cooks, drivers, and other ancillary personnel who do not have supervisory or disciplinary authority over children shall complete at least three clock hours of training in job related topics per center's anniversary year.

3. Substitutes/volunteers working 10 days or less in a 12-month period are not required to meet continuing education requirements as described in §5321.D.1.

4. Documentation shall consist of attendance records and certificates received by staff.

E. CPR and First Aid

1. There shall be a minimum of at least two staff on the premises and accessible to the children at all times with current approved Infant/Child/Adult certification in CPR. Centers with multiple buildings or floors, however, shall have at least one currently certified staff in each building and on each floor of the center.

2. There shall be a minimum of at least 50 percent of all staff on the premises and accessible to the children at all times with documented current approved pediatric first aid training. Centers with multiple buildings or floors, however, shall have at least one currently certified staff in each building and on each floor of the center.

3. Off-site activities, i.e., field trips, shall require at least one staff in attendance and accessible to children at all times to have documented current certification/training in Infant/Child/Adult CPR and pediatric first aid.

4. Wading/swimming pools, or other water activities shall require at least one staff, volunteer, or other supervising adult to be certified/trained in Infant/Child/Adult CPR, pediatric first aid and American Red Cross Community Water Safety**. Wading pools with a depth of less than 2 feet shall not require staff to have Community Water Safety training.

a. If children are taken to off-site water activities, there shall be documentation on file at the center that the Director has verified that the supervising adult meets the above requirements or the lifeguard on duty is currently certified.

b. The center shall ensure that appropriate water safety devices are used as applicable when children are participating in water activities.

**Or equivalent

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of

Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5323. Required Child/Staff Ratios

A. Child/staff ratios are established to ensure the safety of all children.

B. Two child care staff are required at all times for centers with a licensed capacity of 10 or fewer children (including the Director's and/or staff's own children).

C. Required child care staff for centers with a licensed capacity of 11 or more children:

Note: New child/staff ratios become effective within two years of the effective date of these regulations.

Child/Staff Ratios		
Ages of Children	Child/Staff Ratio	New Child/Staff Ratio (Effective date to be determined upon promulgation of final rule)
Infants under 12 months	6:1	5:1
1 year old	8:1	7:1
2 year old	12:1	11:1
3 year old	14:1	13:1
4 year old	16:1	15:1
5 year old	20:1	19:1
6 year old and up	25:1	23:1

1. An average of the child/staff ratio may be applied to mixed groups of children ages 2, 3, 4, and 5.

2. Ratios for children under 2 or over 5 years old are excluded from averaging.

3. When a mixed group includes children under 2 years of age, the age of the youngest child determines the ratio for the group to which the youngest child is assigned.

4. When a mixed group includes children 6 years old and older, the ages of the children under 6 determine the ratio for the group.

D. Only those staff members directly involved in child care and supervision shall be considered in assessing child/staff ratio.

E. Child/staff ratio as specified in §5323.A-C plus one additional adult shall be met for all off-site activities.

F. A designated number of children shall relate daily to a designated staff on a regular and consistent basis using the following guidelines. An average of the group sizes may be applied on mixed age groupings as allowed under §5323.C.

G. Maximum number of children per group (specified space) or unit:

Ages of Children	Child/Staff Ratio	New Child/Staff Ratios (Effective date to be determined upon promulgation of final rule)
Infants (to 12 months)	12:2	10:2
1 year old	16:2	14:2

2 year old	12:1	11:1
3 year old	14:1	13:1
4 year old	16:1	15:1

H. When the nature of a special need or the number of children with special needs warrants added care, the center shall add sufficient staff as deemed necessary by the Bureau to compensate for these needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5325. Care of the Children

A. Food Service and Nutrition

1. Well-balanced and nourishing meals and snacks shall be provided.

a. Children in care for more than four hours shall receive a quantity of food that will supply approximately one-half to two-thirds of the current Recommended Dietary Allowances of the National Research Council.

b. Additional servings of nutritious food over and above the required daily minimum shall be made available to children as needed if not contraindicated by special diets.

c. 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 A) shall be followed.

2. Meals and snacks shall be served at 2-2½ hour intervals.

3. Current weekly menus for meals and snacks shall be prominently posted.

a. The menu shall list the specific food items served.

b. Menu substitutions shall be recorded on or near the posted menu.

4. Children's food shall be served on individual plates, napkins, paper towels or in cups as appropriate.

5. Centers that do not serve breakfast shall have food available for children who arrive in the morning and who have not eaten breakfast.

6. Children shall not be allowed to bring food into the center. The following exceptions are allowed:

a. bottled formula for infants supplied by the parent shall have caps and shall be labeled with the child's name or initials and refrigerated upon arrival;

b. baby food supplied by the parent shall be in the original unopened container and labeled with the child's name;

c. when a child requires a special diet, a written statement from a medical authority shall be on file;

d. children with food allergies/intolerance shall have a written statement signed by the child's parent indicating the specific food allergy/intolerance;

e. when a child requires a modified diet for religious reasons, a written statement to that effect from the child's parent shall be on file;

f. refreshments for special occasions such as birthday parties and holidays, with prior approval from the Director.

7. Food shall not be sold to the children. Soft drink vending machines and other food dispensers for personnel use shall be located outside of the children's areas.

8. Infants and toddlers shall be supervised while eating.

a. Infants shall be held while being bottle fed. A bottle shall not be propped at any time.

b. An infant/toddler who can hold a bottle shall not be placed in a crib with the bottle unless written permission is obtained from the parent.

c. Current feeding instructions shall be provided to the center by the parent. These instructions, from the parent or physician, shall be kept on file and followed.

d. Baby bottles shall not be heated in a microwave.

e. Age appropriate equipment such as feeding tables, booster seats, highchairs, etc. shall be used at mealtimes for infants and toddlers.

9. Drinking water shall be available indoors and outdoors to all children. Drinking water shall be offered at least once between meals and snacks to all children. Water given to infants shall be in accordance with written instructions from parents.

10. Perishable food shall be refrigerated at 45°F or below.

B. Health Service to the Child

1. A center that gives medication assumes additional responsibility and liability for the safety of the children.

2. No medication of any type, prescription or over the counter, shall be given by center staff unless authorized in writing by the parent.

a. Medication and/or special medical procedures shall be given to a child by designated staff only when there is a written, signed request from the parent including child's name, date, dosage, time, name of the medication, instructions and possible side effects.

i. Medical procedures to be provided on an as needed basis shall be updated as changes occur, or at least annually.

ii. If parent provides over-the-counter medication to be given on an as needed basis, the written authorization shall be updated by the parent as changes occur or at least annually and include the child's name, date of authorization, name of medication and dosage. In addition to this authorization, center staff shall document phone contact with the parent prior to giving the medication.

b. All over-the-counter and prescription medication sent to the center shall be in its original container and clearly labeled with the child's name and complete directions for giving the drug.

c. The center shall follow any special directions as indicated on the medication bottle, i.e., before or after meals, with food or milk, refrigerate, etc.

d. Documentation shall be maintained verifying that medication was given according to parent's authorization,

including the date, time and signature of the staff member who gave the medication.

3. Upon arrival at the center, each child shall be observed for possible signs of illness, infections, bruises and injuries, etc. When noted, results shall be documented.

4. If symptoms of contagious or infectious disease develop while the child is in care, he/she shall be placed in isolation until a parent or designated person has been consulted. Any child who has had a 100°F oral temperature reading or 101°F rectal temperature reading the last 12 hours is suspect.

5. Children with the following illnesses or symptoms shall be excluded from the center based on potential contagiousness (communicability) of the disease. Periods may be extended beyond this depending upon individual conditions.

Illness/Symptom	Exclude Until
Meningococcal disease (Neisseria meningitis)	Well with proof of noncarriage*
Hib disease (hemophilus influenza)	Well with proof of noncarriage
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 °F oral or 101 °F rectal or higher) 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 persons**, including the child's physician, chosen by the child's parent or guardian and the 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.

* Proof of Noncarriage. Either by completion of appropriate drug regimen of Rifampin or by a negative throat culture obtained after completion of treatment for meningitis.

** These persons should include the child's physician and other qualified individuals such as the 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 HIV-infected child poses a potential threat to others.

6. 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.

7. The Director shall report any cases or suspected cases of notifiable communicable diseases to the local Office of Public Health.

8. The parent or designated person shall be notified immediately if a child becomes ill, has an accident or exhibits unusual behavior while in care. Notification shall be documented.

C. Supervision

1. Children shall be under direct supervision at all times. Children shall never be left alone in any room or outdoors at any time without a staff present.

2. While on duty with a group of children, child care staff shall devote their entire time in supervision of the children and in participation with them in their activities.

3. At naptime, children may be grouped together with one staff supervising the children sleeping while other staff rotate various duties and lunch time. All children sleeping shall be in the sight of the naptime worker. Appropriate staffing shall be present within the center to satisfy child/staff ratios.

4. Individuals who do not serve a purpose related to the care of children and/or hinder supervision of the children shall not be present in the center.

D. Fire Safety. Fire drills shall be conducted at least monthly. These shall be conducted at various times of the day and night (if nighttime care is provided) and shall be documented. Documentation shall include:

1. date and time of drill;
2. number of children present;
3. number of staff present;
4. amount of time to evacuate the center;
5. problems noted during drill and corrections noted;
6. signatures or initials of staff present.

E. Emergency Procedures

1. The Director shall ensure that the center has procedures for emergencies and evacuation as appropriate for the area in which the center is located and that staff is trained in these procedures.

Note: For additional information contact the Office of Emergency Preparedness (Civil Defense) in your area.

2. The Director shall notify the Bureau and document within 24 hours or the next work day the following reportable incidents:

- a. any death of a child while in the care of the center;
- b. any serious illness or injury requiring hospitalization or professional medical attention other than first aid of a child while in the care of the center;
- c. any fire;
- d. any structural disaster;
- e. any emergency situation that requires temporarily relocating children;

f. any unusual situation which would affect the care of the children, i.e., extended loss of power, water service, gas, etc.

F. Care for Children During Nighttime Hours

1. All minimum standards for child care centers apply to centers which provide care after 9 p.m. with the inclusion of the following standards as set forth in §5325.F.1-2. Any center caring for children at night, but for less than 24 hours shall follow the same requirements for personnel standards as previously stated.

2. In addition, the following standards shall apply.

a. There shall be a designated "Staff-in-Charge" employee as required in §5317.B who is at least 21 years of age.

b. There shall be at least two adults on the premises at all times, regardless of the number of children in attendance.

c. Adequate staff shall be present in the center to meet the child/staff ratios as indicated in §5323.C, however, there shall always be a minimum of at least two staff present.

d. Children may be grouped together with one staff supervising the children sleeping while other staff rotate various duties. All children sleeping shall be in sight of the supervising staff.

e. Meals shall be served to children who are in the center at the ordinary meal times.

f. Each child shall have a separate, age appropriate bed or cot with a mat or mattress with appropriate linens for the bed and child. (Bunk beds are not allowed.)

g. There shall be a posted schedule of activities.

h. Evening quiet time activity such as story time, games, and reading shall be provided to each child arriving before bedtime.

i. Physical restraints shall not be used to confine children to bed.

j. Center's entrance and drop off zones shall be well-lighted during hours of operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

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, Bureau of Licensing, LR 20:450 (April 1994), repealed and repromulgated LR 24:

§5327. General Records

A. Personnel

1. There shall be a record for each employee, including substitutes, on file at the center. This record shall include:

a. application and/or a staff information form to include name, date of birth, social security number, address and telephone number, previous training, education, emergency contact information and work experience;

b. employee's starting and termination date;

c. health records, to include a tuberculin test result and documentation of good health, signed by a physician or designee;

d. job description, including duties to be performed, hours of work, and supervisor;

e. documentation of three positive reference checks;

f. documentation of appropriate driver's license as required in §5313.C.3 if driving is part of employment;

g. documentation of satisfactory criminal record check, as required by R.S. 15:587.1.

2. There shall be a record for each volunteer on file to include information required as follows:

a. essential and nonessential volunteers shall meet §5327.A.1.a.-g and §5321.B and C.2;

b. luxury volunteers' file shall include his/her name, address, date of visit, and reason/interest in the center.

3. There shall be a record for each student trainee on file at the center to include information required in §5327.A.1.a.-f, and g* if student trainee has supervisory or disciplinary control over children.

*Note: The individual(s) shall never be left alone or have supervisory or disciplinary control over children unless §5327.A.1.g is met.

B. Children's Records. There shall be a record for each child on file at the center. This record shall include:

1. general information master card including medical history;

2. immunization record;

3. authorization for release of children;

4. authorization for emergency medical treatment;

5. authorization for off-site activities, if applicable;

6. authorization for medication administration, if applicable;

7. authorization for water activities, if applicable;

8. authorization for transportation, if applicable;

9. infant/toddler bottle authorization, if applicable;

10. special diet/current feeding schedule, if applicable.

C. Retention of Records

1. For licensing purposes, personnel records shall be kept on file a minimum of one year from termination of employment from the center.

2. For licensing purposes, children's records shall be kept on file a minimum of one year from date of discharge from the center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:

§5329. Physical Environment

A. Space Required

1. The center shall be used exclusively by the children and center staff during operating hours. Area licensed for use as a day care center shall not be dually licensed.

2. 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, lofts, storage or food preparation areas, or offices. Any room counted as play space shall be available for play during play hours. If rooms are used exclusively for dining or sleeping, they cannot be included in the licensed capacity.

b. The number of children using a room shall be based on the 35 square feet per child requirement except for group activities such as film viewing, parties, dining and sleeping.

c. There shall be provisions for temporarily isolating a child having or suspected of having a communicable disease

so he/she 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.

d. An area shall be maintained for the purpose of providing privacy for diapering, dressing and other personal care procedures for children beyond the usual diapering age.

3. Outdoor Play Space

a. There shall be outdoor play space with direct exit from the center into the outdoor play yard.

b. The outdoor space shall provide a minimum of 75 square feet for each child in the outdoor play space at any one time. The minimum outdoor play space shall be available for at least one-half of the licensed capacity.

c. The outdoor play space shall be enclosed with a fence or other barrier in such a manner as to protect the children from traffic hazards, to prevent the children from leaving the premises without proper supervision, and to prevent contact with animals or unauthorized persons.

d. Crawlspace and mechanical, electrical, or other hazardous equipment shall be made inaccessible to children.

e. Areas where there are open cisterns, wells, ditches, fish ponds and swimming pools or other bodies of water shall be made inaccessible to children by fencing.

B. Furnishings and Equipment

1. There shall be a working and readily available telephone at the center. Coin operated telephones are not allowed for this purpose.

a. When a center has multiple buildings and a telephone is not located in each building where the children are housed, there shall be a written plan posted in each building for securing emergency help.

b. Appropriate emergency numbers such as fire department, police department, and medical facility shall be prominently posted on or near the telephone.

c. The telephone number for poison control shall be prominently posted on or near the telephone.

d. The center's location address shall be posted with the emergency numbers.

2. All equipment shall be appropriate to the needs and ages of the children enrolled.

3. All play equipment and equipment necessary for the operation of the center shall be maintained in good repair.

4. Play equipment of sufficient quantity and variety for indoor and outdoor use shall be provided which is appropriate to the needs and ages of the children as follows:

a. equipment that encourages active physical play (trampolines are prohibited);

b. equipment that encourages quiet play or activity.

5. There shall be low, open shelves, bins, or other open containers within easy reach of the children for the storage of play materials in each play area. Toy chests with attached lids are prohibited.

6. There shall be individual, labeled space for each child's personal belongings.

7. Chairs and table space of a suitable size shall be available for each child 2 years of age or older.

8. Individual and appropriate sleeping arrangements shall be provided for each child. (State and local health requirements regarding sleeping arrangements shall be met.)

Each child shall be provided with a cot, mat, or crib (baby bed) of appropriate size, height, and material, sufficient to insure his/her health and safety. Each infant shall have a crib separated from all other cribs (nonstackable). Playpens shall not be substituted for cribs. Mats may be used only if the area used for napping is carpeted or if the center is centrally heated and cooled. If mats are used, they shall 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/her on a permanent basis and labeled.

9. 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 labeled sheet or blanket shall also be provided for covering the child.

10. 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.

C. Safety Requirements

1. Prescription and over-the-counter medications, poisons, cleaning supplies, harmful chemicals, equipment, tools and any substance with a warning label stating it is harmful or that it should be kept out of the reach of children shall be locked away from and inaccessible to children. Whether a cabinet or entire room, the storage area shall be locked. Refrigerated medication shall be in a secure container to prevent access by children and avoid contamination of food.

2. Secure railing shall be provided for flights of more than three steps and for porches more than 3 feet from the ground.

3. Gates shall be provided at the head or foot of each flight of stairs to which children have access.

4. Accordion gates are prohibited unless there is documentation on file that the gate meets requirements as approved by the Office of Public Health, Sanitarian Services.

5. First aid supplies shall be available at the center.

6. All areas of the center used by the children, including sleep areas, shall be properly heated, cooled, ventilated, and lighted to prevent extreme conditions in the center.

7. The center and yard shall be:

a. clean;

b. free from hazards.

8. The entire center shall be checked after the last child departs to ensure that no child is left unattended at the center. Documentation shall include date, time, and signature of staff conducting the visual check and shall be reviewed and signed/initialed by the Director.

9. The center shall prohibit the use of alcohol and the use or possession of illegal substances or unauthorized potentially toxic substances, firearms, pellet or BB guns (loaded or unloaded) in the center, on the playground and on any center-sponsored field trip.

10. The center shall prohibit the use of tobacco in any form in indoor areas of the center, on the playground, and on any center-sponsored field trip.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1425.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 24:

(Editor's Note: In a final rule published on pages 1130-1134 of the October 1994 *Louisiana Register*, the Chapter number and heading should have been listed as: **Chapter 54. Sick Child Day Care Centers.**)

Interested persons may request copies as well as submit written comments on this proposed rule to Steve Phillips, Office of the Secretary, Bureau of Licensing, Box 3078, Baton Rouge, Louisiana 70821-3078. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing within 20 days after publication. The deadline date for receipt of all comments is 4:30 p.m.

Public hearings on this proposed rule will be held on Friday, April 24, 1998 at Delgado Community College, Little Theater, New Orleans, LA from 10 a.m.-12 p.m.; Monday, April 27, 1998 at Department of Transportation and Development, First Floor Auditorium, Baton Rouge, LA from 10 a.m.-12 p.m.; Tuesday, April 28, 1998 at Louisiana Tech University, Wylie Tower Auditorium, Ruston, LA from 10 a.m.-12 p.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing at the public hearing.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Class "A" Child Day Care**

- 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 1,400 copies of the Child Day Care Centers Class "A" Licensing manuals to incorporate the changes into existing policy. The projected estimated cost of printing is \$4,429 including postage to mail copies to licensed Class "A" Day Care Centers.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There is no anticipated cost to providers until fiscal year 2000/2001 when centers may have to hire additional staff to meet lower child/staff ratios that are anticipated to be effective September 2000. There is no way to anticipate estimated cost but with the upgrading of standards providers may be eligible to receive assistance or grants intended for the improvement and upgrading of child care services. Also, we currently have centers already meeting the proposed, or lower, child/staff ratios.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The rule will have no impact on competition and no anticipated impact on employment until 2000 when centers may

have to hire additional staff to meet lower child/staff ratios anticipated to be effective 9/1/2000. There is no way to anticipate the estimated cost.

William M. Hightower
Deputy Secretary
9803#064

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Transportation and Development
Office of the General Counsel**

Cash Management Plan
(LAC 70:I.Chapter 11)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Department of Transportation and Development intends to promulgate a rule entitled "Department of Transportation and Development Cash Management Plan," in accordance with R.S. 48:251(D).

Title 70

TRANSPORTATION

Part I. Office of the General Counsel

Chapter 11. Cash Management Plan

§1101. Phased Funding

The department will initiate phased funding of multi-year construction projects by only appropriating sufficient funds in any fiscal year to pay for anticipated actual construction contract obligations incurred in that fiscal year. A multi-year phased funding plan will be developed for each long-term construction contract approved by the secretary for phased funding. The phased funding plan will provide annual anticipated expenditure projections over the life of the project based on contractor supplied information and data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 24:

§1103. Project Eligibility for Phased Funding

In order to qualify for phased funding, the proposed project must be a multi-year construction and/or renovation project which is either:

1. federally aided and exceeding \$10,000,000 in estimated total cost; or
2. a purely state-funded or TIMED project exceeding \$5,000,000 in estimated total cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:251(D).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of General Counsel, LR 24:

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 30 days from the date of publication of this notice of intent to Sherryl J. Tucker, Senior Attorney, Legal Section, Department

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the State Employees Group
Benefits Program**

Frank M. Denton
Secretary

Mental Health Parity

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: DOTD Cash Management Plan

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Act 555 of 1997 requires the Department of Transportation and Development to establish a cash management plan for funds made available for the timely construction of projects. The department anticipates that the cost to implement this plan will be approximately \$150,000 in fiscal year 1998-99. This cost includes \$50,000 for a new full time Accountant Manager 2 to operate the cash management system.

Approximately \$100,000 in one-time expenditures are anticipated for the design and installation of an automated phased funding data base. Currently funds are only appropriated to specific projects when the legislature has appropriated 100 percent of the estimated funds to complete the project. Under the new procedures, DOTD will annually appropriated funds to certain selected multi-year construction projects based on a projection of the actual funds needed annually to satisfy contractor activity. As such, the actual expenditures for each contract will have to be closely monitored to determine the adequacy of annual appropriated amounts and the estimated future appropriations necessary to ultimately complete the multi-year construction contracts. In addition, new complex funding program activities must be implemented for those multi-year construction projects having funding support from the Federal government. All of these additional procedures and data base management responsibilities will require additional staff support. These funds will be provided from the Transportation Trust Fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no effect on the revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will benefit directly affected persons and nongovernmental groups insofar as more DOTD road construction projects will be initiated in a shorter span of time. This will eventually result in certain projects being completed earlier than currently estimated. The amount of this positive economic impact is currently undeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not directly affect competition and/or employment.

Frank M. Denton
Secretary
9803#024

Richard W. England
Assistant to the
Legislative Fiscal Officer

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the board hereby gives notice of intent to amend the Plan Document of Benefits. The board finds that it is necessary to amend provisions of the Plan Document regarding benefits for treatment of mental health and substance abuse disorders in compliance with state and federal law, in particular, the Mental Health Parity Act of 1996. Accordingly, the board intends to amend the Plan Document of Benefits for the State Employees Group Benefits Program in the following particulars:

Amendment Number 1

Amend the Schedule of Benefits, under the heading "Mental Health/Substance Abuse," as follows:

a. Under the subheading "Benefits," amend Paragraph 2 and add Paragraphs 3 and 4, to read as follows (Paragraph 1 is unchanged):

1. ...
2. 100 percent of eligible expenses over \$5,000 until the lifetime maximum for all program benefits is reached.
3. Up to a maximum of 45 inpatient days per person, per calendar year.
4. Up to a maximum of 52 outpatient visits per person, per calendar year inclusive to the intensive outpatient program.

Note: Two days of partial hospitalization or two days of residential treatment center hospitalization may be traded for each inpatient day of treatment that is available under the 45-day calendar year maximum for inpatient treatment. A residential treatment center is a 24-hour, mental health or substance abuse, nonacute care treatment setting for active treatment interventions directed at the amelioration of the specific impairments that led to the admission. Partial hospitalization is a level of care where the patient remains in the hospital for a period of less than 24 hours.

b. Under the subheading "Maximum," delete Paragraphs 2 and 3.

Amendment Number 2

Amend the second, unnumbered, paragraph of Article 3, Section I, Subsection D, to read as follows:

D. Maximum Benefit

* * *

Benefits for mental health and substance abuse treatment will be paid subject to the lifetime limits for all benefits in the

Schedule of Benefits. Benefits paid may be used toward the restoration of the lifetime balance as set forth in the Schedule of Benefits.

* * *

Amendment Number 3

Amend Article 3, Section I, Subsection F, Paragraph 33, to read as follows:

F. Eligible Expenses

* * *

33. Mental health and/or substance abuse services only when obtained through the Program's contractor. These services are subject to a separate \$200 deductible and have a separate \$1,000 out-of-pocket maximum per individual. There is also a \$50 per day deductible for a maximum of five days (\$250) for inpatient benefits. After satisfying any applicable deductibles, the Program, through the contractor pays 80 percent of the first \$5,000 of eligible expenses per calendar year and then 100 percent of eligible expenses up to the lifetime maximum for all benefits listed in the Schedule of Benefits.

* * *

Interested persons may present their views, in writing, to James R. Plaisance, Executive Director, State Employees Group Benefits Program, Box 44036, Baton Rouge, LA 70804, until 4:30 p.m. on Friday, April 24, 1998.

James R. Plaisance
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mental Health Parity**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This change in mental health benefits that will be provided to the program will be cost neutral as amended. Currently, the mental health and substance abuse benefits are capitated at a fixed monthly cost to the program. Louisiana Biodyne is the provider of these services and does not anticipate these changes to affect this rate.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This benefit modification is being made to bring the State Employees Group Benefits Program (SEGBP) into compliance with federal parity legislation.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Those persons who will be affected are those plan members of the program who seek treatment for mental health and substance abuse diagnoses. These changes are made to bring the SEGBP plan into compliance with federal legislation and are designed to be cost neutral to the plan member and the state of Louisiana.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment will not be affected.

James R. Plaisance
Executive Director
9803#008

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of the Treasury
Board of Trustees of the Teachers' Retirement System**

Cost of Living Adjustment
(COLA) (LAC 58:III.1303)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Trustees of the Teachers' Retirement System approved the following method for the distribution of a cost-of-living adjustment for all eligible retirees, all eligible beneficiaries of deceased retirees and all eligible survivors of deceased members of the Teachers' Retirement System from the Employee Experience Account. This benefit adjustment is scheduled to become effective July 1, 1998.

**Title 58
RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana
Chapter 3. Cost-of-Living
§1303. Cost-of-Living Adjustment—July 1, 1998**

A. Effective July 1, 1998, the Board of Trustees of the Teachers' Retirement System of Louisiana shall increase the retirement benefit or other benefit of each retiree, or the beneficiary or survivor of any member eligible to receive benefits, on account of the death of the member or retiree. This increase in benefit shall be provided from the Employee Experience Account held at the Teachers' Retirement System of Louisiana.

B. The increase in benefit granted from the Employee Experience Account shall be a monthly increase in the benefit of each eligible recipient as determined in accordance with the formula: $\$10.00 + W + 2X + Y + 2Z$, where:

- W = \$1.00 per year since retirement or death of the member or retiree to June 30, 1997;
- X = \$1.00 per year since retirement or death of the member or retiree in excess of 10 years as of June 30, 1997;
- Y = \$1.00 per year of credited service at the time of retirement or death of the member or retiree;
- Z = \$1.00 per year of credited service greater than 25.0 years at the time of retirement or death of the member or retiree.

C. No increase in benefit shall be paid to any retiree, beneficiary or survivor unless such person was receiving benefits on or prior to June 30, 1997. In addition, no increase in benefits shall be paid to any former participant of the Deferred Retirement Option Plan unless both plan participation and employment were terminated by the plan participant on or prior to June 30, 1997.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:787 (D) and 11:883.1.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System, LR 24:

Interested persons may comment on the proposed rule in writing until 4:30 p.m., April 30, 1998, to Graig A. Luscombe,

Assistant Director, Teachers' Retirement System of Louisiana,
 Box 94123, Baton Rouge, Louisiana 70804-9123.

James P. Hadley, Jr.
 Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
 FOR ADMINISTRATIVE RULES
 RULE TITLE: Cost-of-Living Adjustment (COLA)**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
 STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Act 1031 of 1992 (LA. R.S. 11:883.1) established the Employee Experience Account from which Teachers' Retirement System of Louisiana (TRSL) may provide periodic cost-of-living adjustments to all eligible retirees and to beneficiaries and survivors of retirees or members. As of June 30, 1997, the Employees Experience Account had on deposit \$435,807,655. Effective July 1, 1998, the TRSL Board of Trustees will provide the second cost-of-living adjustment from the Employee Experience Account. No increase in benefits will be paid to any retiree, beneficiary, or survivor unless such person was receiving benefits from TRSL on or prior to June 30, 1997. The monthly adjustment to be granted eligible recipients will be based upon the formula $\$10.00 + W + 2X + Y + 2Z$, where:

W = \$1.00 per year since retirement or death of the member or retiree to June 30, 1997;

X = \$1.00 per year since retirement or death of the member or retiree in excess of 10 years as of June 30, 1997;

Y = \$1.00 per year of credited service at the time of retirement or death of the member or retiree;

Z = \$1.00 per year of credited service greater than 25.0 years at the time of retirement or death of the member or retiree.

It is estimated by TRSL that this benefit adjustment will cost approximately \$28.0 million the first year of implementation and will be provided to approximately 40,700 retirees, beneficiaries and survivors of deceased members. The actuarial cost for providing this benefit adjustment for all eligible recipients and their beneficiaries for the remainder of their lives is estimated to be \$212,395,677. Administrative costs associated with the provision of this benefit increase are minimal and will create no implementation 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 direct effect on revenue collections of state or local governmental units as a result of this policy. Retirement benefits provided by a state public pension plan are exempt from Louisiana personal income tax; however, additional income being provided in the form of retirement benefits may be recycled into the Louisiana economy.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
 TO DIRECTLY AFFECTED PERSONS OR
 NONGOVERNMENTAL GROUPS (Summary)**

It is estimated by TRSL that eligible recipients, on the average, will receive a 5.0 percent increase in benefits. The actual increase for each eligible recipient will be dependent upon the individual recipient's circumstances.

**IV. ESTIMATED EFFECT ON COMPETITION AND
 EMPLOYMENT (Summary)**

There will be no effect on competition and employment as a result of this policy.

James P. Hadley, Jr.
 Director
 9803#013

Richard W. England
 Assistant to the
 Legislative Fiscal Officer

NOTICE OF INTENT

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

Resident Game Hunting Season—1998-99
 (LAC 76:XIX.101 and 103)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend rules and regulations governing the hunting of resident game birds and game quadrupeds.

Title 76

WILDLIFE AND FISHERIES

Part XIX. Hunting

Chapter 1. Resident Game Hunting Season

§101. General

The Resident Game Hunting Season, 1998-99 regulations are hereby adopted by the Wildlife and Fisheries Commission. A complete copy of the Regulation Pamphlet may be obtained from the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:

§103. Resident Game Birds and Animals 1998-99

A. Shooting hours. One-half hour before sunrise to one-half hour after sunset.

B. Consult Regulation Pamphlet for seasons or specific regulations on Wildlife Management Areas or specific localities.

Species	Season Dates	Daily Bag Limit	Possession Limit
Quail	Nov. 14-Feb. 28	10	20
Rabbit	Oct. 3-Feb. 28	8	16
Squirrel	Oct. 3-Feb. 7	8	16
Pheasant	Nov. 14-Jan. 31	2 (Cock Only)	4
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

C. Deer Hunting Season Recommendations

Area	Archery	Muzzleloader (All Either Sex)	Still Hunt	With or Without Dogs
1	Oct. 1- Jan. 31	Nov. 14-Nov. 20 Jan. 25-Jan.31	Nov.21-Dec. 4 Jan. 9-Jan.24	Dec. 5- Dec.13 Dec. 19- Jan.8
2	Oct. 1- Jan. 31	Oct. 17-Oct. 23 Jan. 4-Jan. 10	Oct. 24-Dec.4	Dec. 5- Jan. 3
3	Sept.19- Jan.19	Oct. 5-Oct. 9 Dec. 12-Dec. 18	Oct. 10-Dec.6 Dec. 19-Jan.3	
4	Oct. 1- Jan. 31	Nov. 14-Nov. 20 Jan. 4-Jan. 10	Nov. 21-Jan.3	
5	Oct. 1- Jan. 31	Nov. 14-Nov. 20 Jan. 4-Jan. 10 (Bucks Only)	Nov.21-Nov.29	
6	Oct. 1- Jan. 31	Nov. 14-Nov. 20 Jan. 25-Jan. 31	Nov. 21-Dec.4	Dec. 5- Dec.13 Dec.19- Jan.24
7	Oct. 1- Jan. 31	Oct. 3-Oct. 9 Jan. 18-Jan. 24	Oct.10-Oct.25 Nov. 21-Dec.6	Dec.12- Jan.17

D. Modern Firearm Schedule (Either Sex Seasons)

Area	Basic Season Dates	Total Days	Exceptions (Those portions of the following parishes)
1	Nov.21-22, 27-29 Dec.5-6, 12-13	9	Nov.21-22, 27-29 (Franklin, Catahoula, LaSalle, Caldwell) Nov.21-22, 27-29, Dec.5-6 (Avoyelles, Grant, Rapides)
2	Oct.24-25, Oct.31-Nov. 1, Nov. 7-8, 27-29, Dec. 5-6	11	Oct.24-25, Nov.27-29 (Caldwell, LaSalle) Oct.24-25, Nov.27-29, Dec.5-6 (Avoyelles)
3	Oct.10-11, 24-25, Oct.31-Nov.1, Nov.7-8, 27-29	11	Oct.10-11, Nov.27-29, Dec.5-6 (St. Landry)
4	Nov.21-22, 27-29	5	Nov.21-22, 27-29, Dec.5-6, 12-13 (East Carroll--That portion lying between the Mississippi River Levee and the Mississippi River)
5	None		
6	Nov.21-22, 27-29, Dec.5-6, 12-13	9	Nov.21-22, 27-29, Dec.5-6 (Avoyelles, Rapides, St. Landry)
7	Oct.10-11, Nov.21-22, 27-29, Dec.12-13	9	

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 21:707 (July 1995), amended LR 22:585 (July 1996), LR 23:871 (July 1997), LR 24:

Public hearings will be held at regularly scheduled Louisiana Wildlife and Fisheries Commission meetings from April through July. Additionally, interested persons may submit written comments relative to the proposed rule until May 22, 1998 to Hugh A. Bateman, Administrator, Wildlife Division, Box 98000, Baton Rouge, LA 70898.

Thomas M. Gattle, Jr.
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Resident Game Hunting Season—1998-99**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Establishment of hunting regulations is an annual process. The cost of implementing the proposed rules, aside from staff time, is the production of the regulation pamphlet. Cost of printing the 1997-98 state hunting pamphlet was \$13,650 and no major increase in expenditures is anticipated. Local governmental units will not be impacted.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Projected hunting license fee collections are between \$4 million and \$5 million annually. Additionally, hunting and related activities generate approximately \$25 million in state sales tax and \$5.6 million in state income tax (Southwick and Associates, 1997). Failure to adopt rule changes would result in no hunting season being established and a potential loss of some of these revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Hunting in Louisiana generates in excess of \$596,000,000 annually through the sale of outdoor-related equipment, associated items and other economic benefits. Figures are based on the national surveys by Southwick and Associates for the IAFWA.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting in Louisiana provides 15,271 jobs (Southwick and Associates, 1997). Not establishing hunting seasons might have a negative and direct impact on these jobs.

Ronald G. Couvillion
Undersecretary
9803#035

Richard W. England
Assistant to the
Legislative Fiscal Officer

Potpourri

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	Well Name	Well No.	Serial No.
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Henry G Doughty	001	083962
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	P S Gaharan Estate	001	087067
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Tullos S-A	001	134084
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Harper	002	150914
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	W L and J L Holmes	001	173798
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	L Tullos	002	183627
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Hardy Tullos Heirs	003	189259
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Hardtner-Edenborn C	006	202635
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Henry G Doughty	002	086383
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Harper	003	150915
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Harper	004	150916
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	L Tullos	003	187058

Alameda Oil Company/Jadath Oil Company	Tullos-Urania	W L and J L Holmes	002	173969
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	W L and J L Holmes	003	187098
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	W L and J L Holmes	005	187100
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Hardy Tullos Heirs	005	189260
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Hardtner-Edenborn C SWD	001	202633
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Hardtner-Edenborn C	007	202636
Alameda Oil Company/Jadath Oil Company	Tullos-Urania	Hardtner-Edenborn SWD	C-10	074482
HDS Production	Caddo-Pine Island	C V Giles	001	172829
HDS Production	Caddo-Pine Island	C V Giles	002	172830
HDS Production	Caddo-Pine Island	Crowley	002	176494
HDS Production	Caddo-Pine Island	Wilkins	001	191666
HDS Production	Caddo-Pine Island	Wilkins	002	199237
HDS Production	Caddo-Pine Island	Wilkins	003	199238
HDS Production	Caddo-Pine Island	Maxie Wynn	001	176802
HDS Production	Caddo-Pine Island	Maxie Wynn	002	176803
HDS Production	Caddo-Pine Island	Maxie Wynn	003	176815
HDS Production	Caddo-Pine Island	Maxie Wynn	004	192132
HDS Production	Caddo-Pine Island	Maxie Wynn	005	192133
HDS Production	Caddo-Pine Island	M B McKinney	001	183982
HDS Production	Caddo-Pine Island	M B McKinney	002	187197
HDS Production	Caddo-Pine Island	M B McKinney	003	191466
HDS Production	Caddo-Pine Island	Fuller	001	176994

HDS Production	Caddo-Pine Island	Fuller	002	189940
HDS Production	Caddo-Pine Island	Fuller	003	189941
HDS Production	Caddo-Pine Island	Fuller	004	190170
HDS Production	Caddo-Pine Island	Fuller	005	190171
HDS Production	Caddo-Pine Island	Fuller	006	197461
HDS Production	Caddo-Pine Island	Fuller	007	197462
HDS Production	Caddo-Pine Island	Fuller	008	199530
HDS Production	Caddo-Pine Island	Fuller	009	180965
Bert and Glen Loe	Wildcat	Tremont Lumber Co	B-2	027944
Glen D. Loe and Bert Loe, Jtly.	Tullos-Urania	Tremont Lumber Co	A-4	035936
P. M. Petroleum	Livonia	L WX SUL;Buriege	001	133144
Pan American Petroleum Corp.	Caddo-Pine Island	M M McClenaghan	001	089109
Sunburst Inc.	Twin Island	Cutler	001	165370
Sunburst Inc.	Twin Island	Cutler	003	168327
Sunburst Inc.	Big Island	Deville Heirs	001	172875
Texas Pacific Oil Co.	East Hackberry	J B Watkins	61D	094012
Texas Pacific Oil Co.	East Hackberry	J B Watkins	033	015133
Texas Pacific Oil Co.	East Hackberry	J B Watkins	017	013558
Texas Pacific Oil Co.	East Hackberry	J B Watkins	052	032418
Texas Pacific Oil Co.	East Hackberry	J B Watkins	064	121415
Texas Pacific Oil Co.	East Hackberry	J B Watkins	049	026184
Texas Pacific Oil Co.	East Hackberry	J B Watkins	014	012688
Texas Pacific Oil Co.	East Hackberry	J B Watkins	047	025809

U.S. Exploration Co.	Fausse Pointe	Helen Burdin	001	211772
U.S. Exploration Co.	Fausse Pointe	Estate of J J Burden et al	001	212613

Warren A. Fleet
Commissioner

9803#071

POTPOURRI

Department of Social Services Office of Community Services

Emergency Shelter Grants Program—1998

The Louisiana Department of Social Services (DSS) anticipates the availability of \$1,685,000 in grant funds for distribution to applicant units of local government under the 1998 State Emergency Shelter Grants Program (ESGP). Program funds are allocated to the state by the U.S. Department of Housing and Urban Development (HUD) through authorization by the Stewart B. McKinney Homeless Assistance Act, as amended. Funding available under the Emergency Shelter Grants Program is dedicated for the rehabilitation, renovation, or conversion of buildings for use as emergency shelters for the homeless, and for payment of certain operating costs and social services expenses in connection with emergency shelter for the homeless. The program also allows use of funding in homeless prevention activities as an adjunct to other eligible activities. As specified under current ESGP policies, eligible applicants are limited to units of general local government for all parish jurisdictions and those municipal or city governmental units for jurisdictions with a minimum population of 10,000 according to recent census figures. Recipient units of local government may make all or part of grant amounts available to private nonprofit organizations for use in eligible activities.

Application packages for the ESGP shall be issued by mail to the chief elected official of each qualifying unit of general local government. In order to be considered for funding, applications must be received by DSS/Office of Community Services by 4 p.m., Friday, May 22, 1998.

Nonprofit organizations in qualifying jurisdictions which are interested in developing a project proposal for inclusion in an ESGP funding application should contact their respective unit of local government to apprise of their interest. To be eligible for funding participation, a private nonprofit organization, as defined by ESGP regulations, must be one which is exempt from taxation under subtitle A of the *Internal Revenue Code*, has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance.

The DSS will continue use of a geographic allocation formula in the distribution of the state's ESG funding to ensure that each region of the state is allotted a specified minimum of state ESG grant assistance for eligible ESGP projects. Regional allocations for the state's 1998 ESG Program have been formulated based on factors for low income populations in the parishes of each region according to U.S. Census Bureau data. Within each region, grant distribution shall be conducted through a competitive grant award process.

The following table lists the allocation factors and amounts for each region:

Region	Factor	Allocation
Region I New Orleans	.1572303	264,933
Region II Baton Rouge	.1120504	188,805
Region III Thibodaux	.0698830	117,753
Region IV Lafayette	.1522065	256,468
Region V Lake Charles	.0531706	89,592
Region VI Alexandria	.0764176	128,764
Region VII Shreveport	.1248105	210,306
Region VIII Monroe	.0985996	166,140
Region IX North Shore	.0746534	125,791
Region X Jefferson	.0809781	136,448

Regional funding amounts for which applications are not received shall be subject to statewide competitive award to applicants from other regions and/or shall be reallocated among other regions in accordance with formulations consistent with the above factors.

Grant awards shall be for a minimum of \$10,000. Applicable grant maximums are as follows.

1. Individual grant awards to applicant jurisdictions of less than 49,000 population shall not exceed \$50,000.
2. For a jurisdiction of over 49,000 population, the maximum grant award shall not exceed the ESGP allocation for that jurisdiction's respective region.

Grant specifications, minimum and maximum awards may be revised at DSS's discretion in consideration of individual applicant's needs, total program funding requests, and available funding. DSS reserves the right to negotiate the final grant amounts, component projects, and local match with all applicants to ensure judicious use of program funds.

Program applications must meet state ESGP requirements and must demonstrate the means to assure compliance if the proposal is selected for funding. If, in the determination of DSS, an application fails to meet program purposes and standards, even if such application is the only eligible

proposal submitted from a region or subregion, such application may be rejected *in toto*, or the proposed project(s) may be subject to alterations as deemed necessary by DSS to meet appropriate program standards.

Proposals accepted for review will be rated on a comparative basis, based on information provided in grant applications. Award of grant amounts between competing applicants and/or proposed projects will be based upon the following selection criteria:

1. Nature and extent of unmet need for emergency shelter, transitional housing and supportive services in the applicant's jurisdiction 40 points
2. The extent to which proposed activities will address needs for shelter and assistance and/or complete the development of a comprehensive system of services which will provide a continuum of care to assist homeless persons to achieve independent living 30 points
3. The ability of the applicant to carry out the proposed activities promptly 15 points
4. Coordination of the proposed project(s) with available community resources, so as to be able to match the needs of homeless persons with appropriate supportive services and assistance 15 points

ESGP recipients are required to provide matching funds (including in-kind contributions) in an amount at least equal to its ESG Program funding unless a jurisdiction has been granted an exemption in accordance with program provisions. The value of donated materials and buildings, voluntary activities, and other in-kind contributions may be included with *hard cash* amounts in the calculation of matching funds. A local government grantee may comply with this requirement by providing the matching funds itself, or through provision by nonprofit recipients.

A recipient local government may, at its option, elect to use up to 2.5193 percent of grant funding for costs directly related to administering grant assistance, or may allocate all grant amounts for eligible program activities. Programs' rules do not allow the use of ESGP funds for administrative costs of nonprofit subgrantees.

Availability of ESGP funding is subject to HUD's approval of the state's FY 98 Consolidated Annual Action Plan for Housing and Community Development Programs. No expenditure authority or funding obligations shall be implied based on the information in this notice of funds availability.

Inquiries and comments regarding the 1998 Louisiana Emergency Shelter Grants Program may be submitted, in writing, to the Office of Community Services, Grants Management Division, Box 3318, Baton Rouge, LA 70821, or telephone (504) 342-2277.

Madlyn B. Bagneris
Secretary

9803#070

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