

NOTICE TO ALL STATE AGENCIES

A revised insertion order form, required when submitting documents for publication in the *Louisiana Register*, will be published in each issue of the Register, following the index pages. Please photocopy the form as needed and send to the Office of the State Register upon document submission.

2017-2018 Budget Report

The following table shows the budget for the year 2017-2018. The total budget is \$1,000,000. The budget is divided into three main categories: Personnel, Materials, and Other. Personnel is the largest category, accounting for 40% of the total budget. Materials account for 30% and Other for 30%.

The budget for Personnel is \$400,000. This includes salaries, benefits, and other personnel-related expenses. The budget for Materials is \$300,000, covering the cost of raw materials and supplies. The budget for Other is \$300,000, which includes miscellaneous expenses and overhead costs.

The budget for Personnel is broken down as follows: Salaries: \$250,000, Benefits: \$100,000, and Other Personnel Expenses: \$50,000. The budget for Materials is broken down as follows: Raw Materials: \$200,000, Supplies: \$100,000, and Other Materials Expenses: \$50,000. The budget for Other is broken down as follows: Miscellaneous Expenses: \$150,000, Overhead Costs: \$100,000, and Other Expenses: \$50,000.

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CONTENTS

I. EXECUTIVE ORDERS	
MJF 96-15—Task Force for the Reduction of Automobile Insurance Rates	527
MJF 96-16—Flying Flags at Half-Staff	528
MJF 96-17—Medically Needy Program	528
MJF 96-18—Re-establishment of the Inter-Agency Transportation Coordination Committee	529
MJF 96-19—Establishment of the Office of Business Advocacy	530
MJF 96-20—Establishment of Substance Abuse Educational Program for State Employees	530
II. POLICY AND PROCEDURE MEMORANDUM	
Office of the Governor, Division of Administration—General Travel—PPM 49 (LAC 4:V.Chapter 15)	531
III. EMERGENCY RULES	
Agriculture and Forestry	
Livestock Sanitary Board—Diseases of Animals—Equine Infectious Anemia Eradication Program (LAC 7:XXI.Chapter 117)	537
Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides—Pesticide Use Restrictions—Azinphos-Methyl (LAC 7:XXIII.13138)	541
Structural Pest Control Commission—One Day to Make a Difference—Pest Management	542
Civil Service	
Board of Ethics for Elected Officials—Lobbyists Required Registration and Reporting	542
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Chemical Accident Prevention (LAC 33:III.Chapter 59)(AQ126E)	545
Health and Hospitals	
Office of Public Health—Sanitary Code—Commercial Seafood Inspection (Chapter XXII and XXIII)	556
Office of the Secretary, Bureau of Health Services Financing—Case Management Services for the Mentally Retarded/Developmentally Disabled—Program Reduction	556
Case Management Services for Optional Targeted Population Groups and Waiver Programs	557
Community Care Program—Physician Management Fee	569
Durable Medical Equipment Program—Reimbursement for Customized Wheelchairs	570
Early Periodic Screening Diagnosis and Treatment (EPSDT) Program—Follow-up Screening Services	571
Early Periodic Screening Diagnosis and Treatment (EPSDT) Health Services—Rehabilitation	571
Federally Qualified Health Center—Reimbursement Methodology	572
Home Health Program—Home Health Services Definitions	572
Hospital Program—Outpatient Laboratory Services	573
Hospital Program—Outpatient Rehabilitation Services	573
Hospital Prospective Reimbursement Methodology	564
Medicaid Case Management Services for the Seriously Mentally Ill—Termination of Services	574
Professional Services Program—Anesthesia Services	575
Professional Services Program—Bilateral Procedures	575
Professional Services Program—Reimbursement Reduction	576
Professional Services Program—Surgical Services	577
Rehabilitation Clinic Services—Reimbursement	577
State-Funded Medically Needy Program	578
Public Safety and Corrections	
Gaming Control Board—Definitions; License Issuance/Renewal; Hearings; Chairman Delegation (LAC 42)	579
Wildlife and Fisheries	
Wildlife and Fisheries Commission—1996 Alligator Season	580
Spring Inshore Shrimp Season Closure—Zone 2	580
Spring Inshore Shrimp Season Closure—Zone 3	581
IV. RULES	
Agriculture and Forestry	
Forestry Commission—Timber Stumpage Values (LAC 7:XXXIX.20101)	581
Health and Hospitals	
Board of Licensed Professional Vocational Rehabilitation Counselors—Requirements and Renewal of License (LAC 46:LXXXVI.703)	582

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Office of Public Health—Sanitary Code—Mechanical Wastewater Treatment for Individual Homes (Chapter XIII)	582
Office of the Secretary, Bureau of Health Services Financing—Medicaid Eligibility Manual	583
Pharmacy Program—Reimbursement	583
Professional Services Program—Neonatology Services	583
Transplant Services—Reimbursement	584
Revenue and Taxation	
Tax Commission—Timber Stumpage Values (LAC 7:XXXIX.20101)	581
Social Services	
Office of Family Support—Food Stamp Program—Deduction of IRS Processing Fee (LAC 67:III.2005)	584
Wildlife and Fisheries	
Wildlife and Fisheries Commission—1996-1997 Resident Game Hunting Season (LAC 76:XIX.101, 103)	585
V. NOTICES OF INTENT	
Agriculture and Forestry	
Office of Forestry, Forestry Commission—Forest Tree Seedling Prices (LAC 7:XXXIX.20301)	586
Economic Development	
Office of Commerce and Industry, Financial Incentives Division—Quality Jobs Program (LAC 13:I.Chapter 42)	586
Education	
Student Financial Assistance Commission, Office of Student Financial Assistance—LEO Adverse Credit	593
Environmental Quality	
Office of Air Quality and Radiation Protection, Air Quality Division—Chemical Accident Prevention Program (LAC 33:III.Chapter 59)(AQ126F)	593
Chemical Accident Prevention Program (LAC 33:III.Chapter 59)(AQ126L1)	595
Chemical Accident Prevention Program (LAC 33:III.Chapter 59)(AQ126L2)	596
Crematories (LAC 33:III.2531)(AQ142)	598
Fugitive Emissions (LAC 33:III.2121 and 2122)(AQ138)	599
Office of Solid and Hazardous Waste, Hazardous Waste Division—EPA Documents (LAC 33:V. Chapters 2, 5, 11, 15, 17, 19, 22, 25, 30, 44, 45, and 49)(HW053)	601
RCRA IV Authorization Federal Package (LAC 33:V.Chapters 1, 5, 15, 19, 22, 30, 31, 37, 40, 41, 43, 44, 45, and 49)(HW050)	618
Waste Minimization Plan (LAC 33:V.2245)(HW056)	629
Health and Hospitals	
Board of Examiners of Psychologists—Public Display of Board's Address (LAC 46:LXIII.1903)	630
Licensed Professional Counselors Board of Examiners—Code of Conduct (LAC 46:LX.Chapter 21)	631
Office of Public Health—Sanitary Code—Mechanical Wastewater Treatment (Chapter XIII)	641
Office of the Secretary, Bureau of Health Services Financing—Minimum Standards for Licensing Home Health Agencies (LAC 48:I.Chapter 91)	641
Nursing Home Minimum Licensure Standards (LAC 48:I.Chapters 97, 98, and 99)	645
Insurance	
Commissioner of Insurance—Regulation 55—Life Insurance Illustrations	645
Regulation 60—Life Insurance Advertising	651
Natural Resources	
Capital Area Ground Water Conservation Commission—Capital Area District—Water Well Permits	656
Public Safety and Corrections	
Board of Private Security Examiners—Definitions, Organization, Board Membership, Training, Investigations (LAC 46:LIX.Chapters 1-8)	657
Social Services	
Office of Rehabilitation Services—Policy Manual—Confidentiality and Order of Selection (LAC 67:VII.101)	660
Treasury	
Bond Commission—Reimbursement Contract (LAC 71:III)	661
Wildlife and Fisheries	
Wildlife and Fisheries Commission—1997 Turkey Hunting Season	663
Commercial Fish Seining Permit—Lake Louis (LAC 76:VII.Chapter 1)	666
VI. ADMINISTRATIVE CODE UPDATE	
Cumulative—January - July, 1996	667
VII. POTPOURRI	
Environmental Quality	
Office of Air Quality and Radiation Protection—Annual Air Quality Report—Air Toxics, Ozone Standard Attainment and Mobile Sources Reports	668
Facilities with a Consolidated Fugitive Emission Program	669
Future Rulemaking on NSPS and NESHAP	669
Health and Hospitals	
Office of the Secretary, Bureau of Health Services Financing—Private Nursing Facility Services—Reimbursement	669
Insurance	
Commissioner of Insurance—Proposed Regulation 58—Viatical Settlements Substantive Change Hearing Notice	670
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites	670

Executive Orders

EXECUTIVE ORDER MJF 96-15

Task Force for the Reduction of Automobile Insurance Rates

WHEREAS: the citizens of Louisiana pay a higher percentage of their earnings for automobile insurance than do citizens of any other state;

WHEREAS: the Louisiana Legislature has made several good-faith attempts to address the state's automobile insurance rate crisis, all without success;

WHEREAS: many factors contribute to the escalating cost of automobile insurance rates, all of which must be examined so that a dramatic reduction in automobile insurance rates may be achieved; and

WHEREAS: the need to rectify Louisiana's burgeoning automobile insurance problem necessitates that a task force be established to research and analyze the factors contributing to Louisiana's high automobile insurance rates and to develop a comprehensive and actuarially-sound plan to reduce the automobile insurance rates;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and the laws of the State of Louisiana, do hereby create and establish the Louisiana Task Force for the Reduction of Automobile Insurance Rates, which shall be domiciled within the Department of Insurance, and do hereby order and direct as follows:

SECTION 1: The Louisiana Task Force for the Reduction of Automobile Insurance Rates (hereafter "Task Force") is established to research and analyze the factors which contribute to the escalating automobile insurance rates in this state and to develop a comprehensive, detailed and actuarially-sound plan which will cause dramatic reduction of automobile insurance rates in this state. The Task Force shall prepare and submit a plan to both houses of the Louisiana Legislature, for their review, no later than February 17, 1997.

SECTION 2: The Task Force shall consist of 16 members who shall be appointed by the governor.

SECTION 3: Ten members of the Task Force shall be appointed by the governor from lists of nominees submitted by specified organizations, as follows:

- a. one member appointed from a list of nominees submitted by the Louisiana Trial Lawyers Association;
- b. two members appointed from a list of nominees submitted by the following organizations: Professional Insurance Agents of Louisiana, Inc.; Independent Insurance Agents; Louisiana Association of Life Underwriters; and the National Independent Insurance Agents Association;
- c. one member appointed from a list of nominees submitted by the Louisiana Medical Society;
- d. one member appointed from a list of nominees submitted by the insurer writing mutual property and casualty automobile insurance in Louisiana, which had the highest earned premium volume as reported in the insurer's 1995 Annual Statement filed with the Department of Insurance;

e. one member appointed from a list of nominees submitted by the insurer writing stock property and casualty automobile insurance in Louisiana, which had the highest earned premium volume as reported in the insurer's 1995 Annual Statement filed with the Department of Insurance;

f. one member appointed from a list of nominees submitted by the insurer writing domestic property and casualty automobile insurance in Louisiana, which had the highest earned premium volume as reported in the insurer's 1995 Annual Statement filed with the Department of Insurance;

g. one member appointed from a list of nominees submitted by the insurer writing personal lines package policies in Louisiana, which had the highest earned premium volume as reported in the insurer's 1995 Annual Statement filed with the Department of Insurance;

h. one member appointed from a list of nominees submitted by Louisiana Association of Fire and Casualty Insurance Companies;

i. one member appointed from a list on nominees submitted by Louisiana based consumer organizations.

In the event that any of the foregoing organizations or groups of organizations either fail to submit a list of nominees or fail to submit any nominations which are acceptable to the governor, then the governor shall appoint a member without regard to the nomination requirement.

SECTION 4: the six remaining members of the Task Force shall be the commissioner of insurance; the governor or his designee; the president of the Senate or a member of the Senate designated by the president; the speaker of the House of Representatives or a member of the House of Representatives designated by the speaker; and the superintendent of the Department of Public Safety or the superintendent's designee; one at-large member appointed by the governor.

SECTION 5: The governor shall appoint a member to serve as chairman of the Task Force.

SECTION 6: Task Force members shall not receive compensation, nor shall they be reimbursed for travel expenses or per diem expenses for their attendance at meetings.

SECTION 7: Support staff for the Task Force and facilities for their meetings shall be provided by the Department of Insurance.

SECTION 8: the provisions of this order are effective upon signature and shall remain in effect until amended, modified, or rescinded 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 13th day of June, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9607#009

EXECUTIVE ORDER MJF-96-16

Flying Flags at Half-Staff

WHEREAS: a terrorist attack against American servicemen abroad occurred on the evening of June 25, 1996, when a truck carrying more than two tons of explosives detonated near Khobar Towers, a military housing facility at Abdul Aziz Air Base near Dhahran, Saudi Arabia;

WHEREAS: nineteen Americans were killed by the truck bombing, including Staff Sergeant Kevin Jerome Johnson, a native of Shreveport;

WHEREAS: at least 270 Americans and 147 Saudi Arabians were wounded as a result of the truck bombing;

WHEREAS: the citizens of the State of Louisiana mourn the loss of their family, friends and fellow Americans who were serving in our country's armed forces and killed by the bombing;

WHEREAS: the citizens of the State of Louisiana are distressed that so many of their fellow Americans and Saudi Arabians must endure pain and suffering as a result of the terrorist attack on the American military installation near Dhahran, Saudi Arabia; and

WHEREAS: the citizens of the State of Louisiana desire to show their respect for Staff Sergeant Kevin Jerome Johnson and his fellow Americans who were killed by the truck bombing, for the American servicemen and Saudi Arabians wounded in the terrorist attack, and for their families;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the Constitution and laws of the State of Louisiana, so the citizens of this state may express their respect for those killed and wounded in the June 25, 1996 truck bombing of Khobar towers, Abdul Aziz Air Base near Dhahran, Saudi Arabia, do hereby order and direct that the flags of the United States and the State of Louisiana be flown at half-staff over the State Capitol and all public buildings and institutions of the State of Louisiana, until sunset on Sunday, July 7, 1996.

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 27th day of June, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9607#017

EXECUTIVE ORDER MJF 96-17

Medically Needy Program

WHEREAS: at any given period of time, approximately 4,000 citizens of the state of Louisiana are considered "medically needy" since they have excessive medical bills, yet earn salaries which exceed the maximum allowed for standard

Medicaid eligibility;

WHEREAS: medical assistance for the "medically needy" of this state who do not qualify for standard Medicaid had been provided by the Medically Needy Program, a special federally-funded program operating within the ambit of Medicaid;

WHEREAS: federal budget cuts limited the amount of federal funds available for discretionary Medicaid programs such as the Medically Needy Program and the Louisiana Legislature did not have sufficient funds to allocate the \$60,000,000 needed to fund the Medically Needed Program in the General Appropriations Bill of 1996-97;

WHEREAS: a gradual phase-out of the Medically Needy Program could not be accomplished for the nearly 4,000 citizens of the state of Louisiana who presently receive benefits under the program because federal rules and regulations require that, if any federal funds are to be expended on the program, the Medically Needy Program must be fully implemented and continuously admitting new applicants;

WHEREAS: written notice was issued to the citizens of the state of Louisiana who are receiving benefits under the Medically Needy Program, advising them that the program would be terminated, effective July 1, 1996;

WHEREAS: many of the state's Medically Needy Program beneficiaries became imperiled as a result of the termination of the program for reasons such as the cost of the nursing home care for their loved ones, or the cost of their cancer treatment or previously scheduled surgery would cause them financial devastation; and

WHEREAS: the Louisiana Senate enacted Senate Concurrent Resolution Number 66 which urges and requests the governor, the commissioner of administration, and the secretary of the Department of Health and Hospitals to "work diligently, creatively, and resourcefully to find a method to financially support the Medically Needy Program";

NOW THEREFORE I, M. J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the Constitution and the laws of the state of Louisiana, do hereby create the Louisiana Medically Needy Program within the Department of Health and Hospitals, and do hereby order and direct as follows:

SECTION 1: That the secretary of the Department of Health and Hospitals and the commissioner of administration secure a means of financing, without use of federal funds, the Louisiana Medically Needy Program.

SECTION 2: That participants in the Louisiana Medically Needy Program be strictly limited to those citizens of Louisiana who are participating in or who have applications pending for their participation in the Medically Needy Program as of June 30, 1996.

SECTION 3: That the secretary of the Department of Health and Hospitals promulgate emergency rules to implement the Louisiana Medically Needy Program and to pattern it after the federally-funded Medically Needy Program, except that no new applicants for the program be accepted on or after July 1, 1996.

SECTION 4: That the secretary of the Department of Health and Hospitals and the commissioner of administration

present a proposal for funding the Louisiana Medically Needy Program to the Joint Legislative Committee on the Budget for its review and approval.

SECTION 5: That the Department of Health and Hospitals implement the Louisiana Medically Needy Program effective July 1, 1996.

SECTION 6: That the provisions of this order are effective upon signature and shall remain in effect through June 30, 1997, unless amended, modified, or rescinded prior to that date.

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 28th day of June, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9607#018

EXECUTIVE ORDER MJF 96-18

Re-establishment of the Inter-Agency Transportation Coordination Committee

WHEREAS: numerous state agencies are responsible for providing and administrating transportation services and resources; and

WHEREAS: these agencies share a common goal of managing available transportation service funding in an accountable and cost-effective manner; and

WHEREAS: coordinated transportation policies and services maximize the ability of state agencies to utilize transportation resources in a cost efficient manner and such coordination can only be accomplished through continuous, open communication and cooperation between the state agencies; and

WHEREAS: in the past, these aims have been accomplished through an Inter-Agency Transportation Coordination Committee;

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

SECTION 1: The Inter-Agency Transportation Coordination Committee (IATCC) is hereby re-established within the Office of the Secretary of the Department of Transportation and Development for the purpose of obtaining maximum use of transportation resources, and increasing the cost efficiency of providing transportation services by coordinating and consolidating administration, planning and funding of providing public and specialized transportation services.

SECTION 2: The membership of the IATCC shall be composed as follows:

A. the secretary of the Department of Transportation and

Development, or the secretary's designee;

B. the secretary of the Department of Health and Hospitals, or the secretary's designee;

C. the secretary of the Department of Social Services, or the secretary's designee;

D. the secretary of the Department of Labor, or the secretary's designee;

E. the executive director of the Governor's Office of Elderly Affairs, or the executive director's designee;

F. the president of the Senate, or the president's designee from the membership of the Senate;

G. the speaker of the House of Representatives, or the speaker's designee from the membership of the House.

SECTION 3: The IATCC shall:

A. Develop and maintain a consolidated inventory of all transportation providers operating within the state. Accordingly, each state agency involved in providing transportation services shall provide such information to the IATCC as is necessary for it to compile the consolidated inventory including, but not limited to, information relative to funding, expenses, revenues, ridership, areas of service and evaluations of performance.

B. Review and evaluate the transportation provision policies of each agency to determine the most efficient methods for facilitating the coordination of transportation services.

C. Make recommendations specifically addressing: 1) the standards of financial and activity reporting; and 2) the contents of interagency agreements including service assurances, financial commitments, monitoring plans and compliance plans, and the most appropriate and least costly service that can be accomplished through the coordination or consolidation of intra-departmental transportation resources.

SECTION 4: The secretary of the Department of Transportation and Development shall chair the IATCC. A majority of the members shall constitute a quorum for the transaction of business.

SECTION 5: The IATCC shall hold an organizational meeting within 30 days of the effective date of this order. Thereafter, the IATCC shall meet at regularly scheduled intervals and, if necessary, at special meetings called by the chair.

SECTION 6: The chair shall be responsible for transmitting to the governor a report of the IATCC's recommendations for needed revisions to the policies of the represented state agencies and a copy of the transportation provider inventory, on an annual basis. When deemed necessary by a majority of the members of the IATCC, the chair shall transmit copies of the reports and inventories to the appropriate legislative committees.

SECTION 7: All departments, commissions, boards, agencies and officers of the state, and any political subdivisions thereof, are authorized and directed to cooperate with the IATCC in implementing the provisions of this order.

SECTION 8: The provisions of this order are effective upon signature and shall remain in effect until amended, modified or rescinded 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 1st day of July, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9607#032

EXECUTIVE ORDER MJF 96-19

Establishment of the Office of Business Advocacy

WHEREAS: the Executive Branch, through the Department of Environmental Quality, the Department of Natural Resources, the Department of Wildlife and Fisheries, the Department of Health and Hospitals, and the Department of Economic Development, works to preserve and protect the health, safety and welfare of the people of the state of Louisiana; and

WHEREAS: the work of these departments is correlative and comprehensive, and necessitates the utilization of numerous permits, licenses, and applications; and

WHEREAS: a need exists for the coordination and effective use of permits, licenses and applications between the departments; and

WHEREAS: this need has been addressed in the past by the Office of Permits within the Executive Department, Office of the Governor; and

WHEREAS: the re-creation of the Office of Permits as the Office of Business Advocacy within the Executive Department, Office of the Governor, will facilitate service to the people of Louisiana;

NOW THEREFORE I, M. J. "MIKE" FOSTER, JR., Governor of the state of Louisiana, by virtue of the Constitution and laws of the state of Louisiana, do hereby create and establish an Office of Business Advocacy within the Executive Department, Office of the Governor, and do hereby order and direct as follows:

SECTION 1: The Office of Business Advocacy is hereby created and established within the Executive Department, Office of the Governor. It is the successor of the Office of Permits.

SECTION 2: The duties and functions of the Office of Business Advocacy include, but are not limited to, assisting with the creation and implementation of incentives for economic development; tracking and coordinating various existing permits, licenses and applications utilized or processed by the Department of Environmental Quality, the Department of Natural Resources, the Department of Wildlife and Fisheries, the Department of Health and Hospitals, and the Department of Economic Development; and assisting with the processing of new permits through the various departments.

SECTION 3: The Office of Business Advocacy may employ three officers, namely Executive Assistant, Administrative Assistant, and Deputy Liaison Officer. These

officers shall be appointed by and serve at the pleasure of the governor, who shall also determine their salaries.

SECTION 4: The Office of Business Advocacy shall be located in and operate from a state-owned facility.

SECTION 5: The Office of Business Advocacy shall have the necessary staff and resources to fulfill the duties and responsibilities specified in this order.

SECTION 6: All departments, commission, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the Office of Business Advocacy in implementing the provisions of this order.

SECTION 7: This Executive Order shall be effective upon signature and shall remain in effect until amended, modified, or rescinded 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 1st day of July, 1996.

M. J. "Mike" Foster Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9607#033

EXECUTIVE ORDER MJF 96-20

Establishment of Substance Abuse Educational Program for State Employees

WHEREAS: the Office of the Governor and the State of Louisiana has a long-standing commitment to working toward a drug-free Louisiana;

WHEREAS: the employees of this state are among its most valuable resources and their good health is necessary for them to carry out their responsibilities;

WHEREAS: substance abuse causes serious adverse consequences on users, affecting their productivity, their health and safety, and their dependents, co-workers and the general public;

WHEREAS: state government should actively promote a drug free workforce and the prevention of substance abuse by its employees; and

WHEREAS: the Federal Drug Free Workplace Act of 1988 places restrictions on state government offices which receive federal grants and contracts, and requires them to maintain a drug-free workplace;

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

SECTION 1: The state of Louisiana shall have a goal to increase employee awareness about substance abuse and to achieve and maintain a workplace free of drug and alcohol abuse. The state of Louisiana shall have a policy which:

- a. prohibits the illegal use, possession, sale or manufacture of controlled substances by state employees;
- b. prohibits reporting to work or working under the influence of illegal drugs or alcohol;
- c. encourages rehabilitation, when possible, for substance abuse by employees; and
- d. promotes substance abuse awareness for state employees.

SECTION 2: The commissioner of administration shall maintain and administer the substance abuse policy and awareness program for state employees. The policy and awareness program shall be applicable to all state employees and shall meet the requirements of the 1988 Federal Drug Free Workplace Act.

SECTION 3: All state agencies shall carry out the provisions of the established substance abuse policy and awareness program. All state agencies shall make a good faith effort to maintain a workplace free of substance abuse.

SECTION 4: This order is effective upon the signature of the governor and shall remain in effect until amended, modified, or rescinded 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 1st day of July, 1996.

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

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9607#034

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDUM

Office of the Governor
Division of Administration

General Travel—PPM 49 (LAC 4:V.Chapter 15)

(Editor's Note: The following PPM 49 supersedes a Notice of Intent published on pages 302-305 of the April, 1996 Louisiana Register and a

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memorandum

Chapter 15. General Travel Regulations - PPM Number 49

Subchapter A. Introduction

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the commissioner of administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures* Memorandum Number 49, the state general travel regulations, effective July 1, 1996. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

B. Legal Basis—L.R.S. 39:231—"The commissioner, with the approval of the governor, shall prescribe rules defining the conditions under which each of various forms of transportation may be used by state officers and employees and used by them in the discharge of the duties of their respective offices and positions in the state service and he shall define the conditions under which allowances will be granted for all other classes of traveling expenses and the maximum amount allowable for expenses of each class."

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the commissioner of administration. Three copies of such regulations shall be submitted for prior review and approval by the commissioner of administration.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. Contracted Travel Services. The state has contracted for travel-agency services which must be used unless exemptions have been granted by the Division of Administration prior to travel. Reservations for in-state hotel/motel accommodations are not required to be made through the contracted travel agencies.

4. Authorization to Travel

a. All travel must be authorized and approved in writing by the head of the department, board, or commission from whose funds the traveler is paid. A department head may delegate this authority in writing to one designated person. Additional persons within a department may be designated with approval from the commissioner of administration. A file shall be maintained on all approved travel authorizations.

b. An annual authorization for routine travel shall not cover travel between an employee's home and workplace, out-of-state travel, or travel to conferences or conventions.

5. Funds for Travel Expenses

Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses that can be covered by the corporate credit card. Advances of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the travel voucher covering the related travel, not later than the fifteenth day of the month following the completion of travel.

EXEMPTIONS: Cash advances may be allowed for:

A. employees whose salary is less than \$15,000/year;

B. employees who applied for the state-sponsored corporate credit card program but were rejected (proof of rejection must be available in agency travel file);

C. employees who accompany and/or are responsible for students on group or client travel;

D. new employees who have not had time to apply for and receive the card;

E. employees traveling for extended periods;

F. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

G. advance ticket purchase (until a business travel account with a corporate credit card can be established);

H. registration for seminars, conferences, and conventions;

I. incidental costs not covered by the corporate credit card (e.g., taxi fares, tolls, registration fees; conference fees) may be submitted on a preliminary request for reimbursement when paid in advance;

J. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. All backup data (ticket stub or traveler's copy) must be attached to the final reimbursement request.

6. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

7. State Credit Cards (issued in the name of the agency only). Credit cards issued in the name of the state agency are not to be used for the purpose of securing transportation, lodging, meals, or telephone and telegraph service, unless prior written permission has been obtained from the commissioner of administration.

8. No Reimbursement When No Cost Incurred by Traveler. No claim for reimbursement shall be made for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

§1505. Claims for Reimbursement

A. All claims for reimbursement for travel shall be submitted on state Form BA-12, unless exception has been granted by the commissioner of administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. The purpose for extra and unusual travel must be stated in the space provided on the front of the form. In all cases the date and hour of departure from and return to domicile must be shown.

B. Excepting where the cost of air transportation, conference, or seminar is invoiced directly to the agency/department, all expenses incurred on any official trip shall be paid by the traveler and his travel voucher shall show all such expenses in detail to the end that the total cost of the trip shall be reflected by the travel voucher. If the cost of air transportation is paid directly by the agency/department, a notation will be indicated on the travel voucher indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler's copy of the passenger ticket shall be attached to the travel voucher.

C. In all cases, and under any travel status, cost of meals and lodging shall be paid by the traveler and claimed on the travel voucher for reimbursement, and not charged to the state department, unless otherwise authorized by the Division of Administration.

D. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$10 is due. In no case shall reimbursement for travel in a previous fiscal year be paid from current year appropriations unless funds have been specifically reserved for that purpose.

E. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to severe disciplinary action as well as being criminally and civilly liable within the provisions of state law.

Subchapter B. Definitions

§1507. Definitions

For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants and contractors or other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services in accordance with R.S. 39:1481 et seq.;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided.

Conference/Convention—a meeting for a specific purpose and/or objective. Documentation required is a formal agenda and/or program.

Emergency Travel—under extraordinary circumstances where the best interests of the state require that travel be undertaken not in compliance with these regulations, approval after the fact by the commissioner of administration may be given if appropriate documentation is presented promptly. Each department shall establish internal procedures for authorizing travel in emergency situations.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the official domicile.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico and the Virgin Islands.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile.

a. Except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace).

b. A traveler whose residence is other than the office domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence.

c. The official domicile of a person located in the field shall be the city of town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interests of the agency and not for the convenience of the person.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico and the Virgin Islands.

Per Diem—flat rate paid in lieu of travel reimbursement for people on extended stays.

State Employee—employees below the level of state officer.

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the Louisiana Revised Statutes (secretary, deputy secretary, undersecretary, assistant secretary, and the equivalent positions in higher education and the office of elected officials).

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct and usually traveled route must be used by official state travelers. All mileage shall be computed on the basis of odometer readings from point of origin to point of return.

Traveler—a state officer, state employee, or authorized person when performing authorized travel.

Subchapter C. Methods of Transportation

§1508. Cost-effective Transportation

The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, cost of operation of a vehicle, cost and availability of common carrier services, etc.

§1509. Air

A. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Before travel by privately-owned or by chartered aircraft is authorized by a department head, the traveler shall certify that: 1) at least one hour of working time will be saved by such travel; and 2) no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

C.1. Chartering a privately-owned aircraft must be in accordance with the Procurement Code.

2. Reimbursement for use of a chartered or unchartered privately-owned aircraft under the above guidelines will be made on the basis of 26 cents per mile or the lesser of commercial air at state contract rate or coach/economy rates unless there are extenuating circumstances which must be approved by the commissioner of administration.

3. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

D. Commercial air travel will not be reimbursed in excess of state contract air rates when available, or coach/economy class rates when contract rates are not available. The difference between contract or coach/economy class rates and first class or business class rates will be paid by the traveler. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline indicating this fact. The certification will be attached to the travel voucher.

1. The state encourages but does not require use of lowest priced airfares where circumstances which can be documented dictate otherwise.

2. Where a stopover is required to qualify for a low-priced airfare, the state will pay additional lodging and meals expense subject to applicable limits where a net savings in total trip expenses results from use of the low-priced airfare. For determining whether there is a savings, the state contract airfare should be used for comparison, or coach/economy fare

if there is no contract rate. The comparison must be shown on the travel voucher.

3. The policy regarding airfare penalties is the state will pay the penalty incurred for a change in plans or cancellation only when the change or cancellation is required by the state. Certification of the requirement for the change or cancellation by the traveler's department head is required on the travel voucher.

4. For international travel only, when an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel voucher.

E. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline charge of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by employee.

F. Companion fares when purchased for a state employee and nonstate employee, reimbursement to the state employee will be the amount of the lowest logical fare.

G. Contract airfares are to be booked only through the state's contracted travel agencies and are to be used for official state business. Contract airfares alleviate penalties and restrictions. These fares CANNOT be used for personal/companion or spouse travel.

H. Traveler is to use the lowest logical airfare whether the plane is a prop or a jet.

I. Frequent Flyer miles accumulated from official state business must be used to purchase tickets for official business. Each individual is solely responsible for notification to their agency or department.

§1511. Motor Vehicle

A. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid state driver's license.

B. If available, safety restraints shall be used by the driver and passengers of vehicles. All accidents, major and minor, shall be reported first to the local police department or appropriate law enforcement agency. An accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

1. State-Owned Vehicles

a. All purchases made on state gasoline credit cards must be signed for by the approved traveler making the purchase. The license number and the unit price and quantity of the commodity purchases must be noted on the delivery ticket by the vendor. Items incidental to the operation of the vehicle may be purchased via state gasoline credit cards only when away from official domicile on travel status. In all instances where a credit card is used to purchase items or services which are incidental to the operation of a vehicle, the

tissue copy of the credit ticket along with a written explanation of the reason for the purchase will be attached to the monthly report mentioned in this Subsection. State-owned credit cards will not be issued to travelers for use in the operation of privately-owned vehicles.

b. Travelers in state-owned automobiles who purchase needed repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Each agency/department shall familiarize itself with the existence of such allowances and/or contracts and location of vendors by contacting the Purchasing Office, Division of Administration.

c. The travel coordinator/officer/user of each state-owned automobile shall submit a monthly report to the department head, board, or commission indicating the number of miles traveled, odometer reading, credit card charges, dates, and places visited.

d. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files.

e. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the traveler's supervisor if he determines that the best interest of the state will be served and if the passenger (or passenger's guardian) signs a statement acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

2. Personally-Owned Vehicles

a. When two or more persons travel in the same personally-owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage shall be reimbursable on the basis of 26 cents per mile.

c. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance at infrequent or irregular meetings, etc. Within the city limits where his/her office is located, the employee may be reimbursed for mileage only.

d. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel, the traveler will be reimbursed for in-route expenses inclusive of meals, lodging, and mileage on the basis of 26 cents per mile. The total cost of the mileage may not exceed the cost of travel by State Contract air rate or coach rate if no contract rate is available.

e. When a traveler is required to regularly use his/her personally-owned vehicle for agency activities, the agency head may request authorization from the commissioner of administration for a lump sum allowance for transportation or

reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Requests for lump sum allowance shall be granted for periods not to exceed one fiscal year.

f. The traveler shall be required to pay all operating expenses of the vehicle including fuel, repairs, and insurance.

3. Rented Motor Vehicles

a. Written approval of the department head prior to departure is required for the rental of vehicles. Such approval may be given when it is shown that vehicle rental is the only or most economical means by which the purposes of the trip can be accomplished. In each instance, documentation showing cost effectiveness of available options must be readily available in the reimbursement files. This authority shall not be delegated to any other person.

b. Only the cost of rental of subcompact or compact models is reimbursable, unless 1) non-availability is documented 2) the vehicle will be used to transport more than three persons or 3) the cost of a larger vehicle is no more than the rental rate for a subcompact or compact.

c. Collision Deductible Waiver (CDW) is not reimbursable for domestic travel. At the discretion of the department head, CDW costs may be reimbursed for international travel. Should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and reimbursement claimed on a travel expense voucher. The accident should also be reported to the Office of Risk Management (see methods of transportation-motor vehicles).

d. Personal accident insurance when renting a vehicle is not reimbursable. Employees are covered under workmen's compensation while on official state business.

e. Any personal mileage on a vehicle rented for official state business is not reimbursable and shall be deducted.

§1513. Public Ground Transportation

The cost of public ground transportation such as buses, subways, airport limousines, and taxis is reimbursable when the expenses are incurred as part of approved state travel. For each transaction over \$15 a receipt is required.

Subchapter D. Lodging and Meals

§1515. Reimbursement

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 31 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 31-day period has been previously secured from the commissioner of administration.

2. Travel Period. Travelers may be reimbursed for meals according to the following schedule:

a. breakfast: when travel begins at/or before 6 a.m. on the first day of travel, or extends beyond 9 a.m. on the last day of travel, and for any intervening days.

b. lunch: no reimbursement shall be made for lunch for travel except when travel extends over at least one night or if traveler is eligible for both the breakfast and dinner meals. If travel extends overnight, lunch may be reimbursed for those days where travel begins at/or before 10 a.m. on the first day of travel, or extends beyond 2 p.m. on the last day of travel, and for any intervening days.

c. dinner: when travel begins at/or before 4 p.m. on the first day of travel, or extends beyond 8 p.m. on the last day of travel and for any intervening days.

B. Exceptions

1. Twenty Percent Over Allowances. Department heads may allow their employees to exceed the lodging and meals provisions of these regulations by no more than 20 percent on a case-by-case basis. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files. This authority shall not be delegated to any other person. Reimbursement requests must be accompanied by receipt.

2. Actual Expenses for State Officers. State officers and others so authorized by statute or individual exception will be reimbursed on an actual expenses basis for meals and lodging except in cases where other provisions for reimbursement have been made by statute. The request for reimbursement must be accompanied by a receipt or other supporting documents for each item claimed and shall not be extravagant and will be reasonable in relationship to the purpose of the travel.

C. Meals (Including Tips)

1. Travelers may be reimbursed up to the following amounts for meals:

	In-state	Out-of-State Including N.O.	High Cost	Extra High Cost
Breakfast	\$ 5	\$ 6	\$ 7	\$ 8
Lunch	\$ 7	\$ 8	\$ 9	\$10
Dinner	\$12	\$14	\$16	\$18
	<u>\$24</u>	<u>\$28</u>	<u>\$32</u>	<u>\$36</u>

Receipts are not required for routine meals within these allowances. Number of meals claimed must be shown on travel voucher. If meals of state officials exceed these allowances, receipts are required.

Cost of meals served in conjunction with state-sponsored in-state conferences (may not exceed the following including tax):

Lunch In-State excluding New Orleans	\$10
Lunch - New Orleans	\$12

Refreshment expenditures for a meeting, conference or convention are to be within the following rates:

served on state property: not to exceed \$2 per person, per morning and/or afternoon session;

served on hotel properties: not to exceed \$3.50 per person, per morning and/or afternoon sessions.

D. Lodging (plus tax, receipt required)

ACTUAL-NOT TO EXCEED:

\$ 50	In-state
\$ 55	Baton Rouge, Monroe
\$ 60	Bossier, Lake Charles, Shreveport
\$ 70	New Orleans*
\$ 60	Out-of-State (except those listed)
\$ 90	High cost (Baltimore, Atlanta, Cleveland, Dallas, Denver, Detroit, Houston, Miami, Philadelphia, Phoenix, Pittsburgh, San Diego, St. Louis, San Antonio, Seattle, all of Hawaii)*
\$105	Extra High Cost (Boston, Chicago, Los Angeles, San Francisco, Washington, D.C.)*
\$140	New York City*

*The inclusion of suburbs of these cities shall be determined by the department head on a case-by-case basis.

E. Conference Lodging

Travelers may be reimbursed expenses for conference hotel lodging not to exceed the following rates per day.

Receipts from a bona fide hotel or motel for lodging shall be submitted and attached to the travel voucher. Where multi-hotels are offered in conjunction with a conference, travelers shall seek to utilize the least expensive.

\$ 60	In-state (except those listed)
\$ 70	Baton Rouge, Bossier City, Lake Charles, Shreveport
\$ 80	New Orleans
\$140	All other out-of-state*

*The inclusion of suburbs of these cities shall be determined by the department head on a case-by-case basis.

F. Extended Stays. For travel assignment involving duty for extended periods at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

Subchapter E. Other Expenses

§1517. Reimbursement for Other Expenses

The following expenses incidental to travel may be reimbursed:

1. communications expenses relative to official state business (receipt required for over \$3). Employees on domestic overnight travel status can be reimbursed up to \$3 for one call home upon arrival at their destination and a call every second night after the first night if the travel extends several days. Employees on international travel can be reimbursed calls to their home for a maximum of five minutes per call upon arrival to and prior to departure from their destination (within the first or last 24 hours of the trip, respectively). For stays in excess of seven days, one call will be allowed for each additional week. An additional week will be determined to be at least four days in duration;

2. charges for storage and handling of equipment;

3. tips for baggage handling not to exceed \$1 per bag;

4. travelers using motor vehicles on official state business will be reimbursed for necessary storage and parking fees, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required;

5. room rental for a conference meeting using

1) Procurement Code or 2) state contracted travel services.

6. registration fees at conferences (meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head).

§1519. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc, by federal or local representatives.

2. Bonafide official business meetings at which a meal is served and it is required to meet during a meal hour.

3. Extraordinary situations when state employees are required by their supervisor to work more than a 12-hour weekday or 6-hour weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the commissioner of administration in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year.

C. In such cases, the department will report on a semi-annual basis to the commissioner of administration all special meal reimbursements made during the previous six months. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles and affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the commissioner of administration to exceed this reimbursement limitation.

All of the following must be submitted for review and approval of the department head or their designee prior to reimbursement:

A. detailed breakdown of all expenses incurred, with appropriate receipt(s);

B. subtraction of cost of any alcoholic beverages;

C. copy of prior written approval from the commissioner of administration;

D. receipts.

§1521. International Travel

A. All international travel must be approved by the commissioner of administration prior to departure, unless specific authority for approval has been delegated to a department head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate/date, meals, local transportation, etc.), the funding source from which reimbursement will be made, and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the extra high-cost area rates for lodging and meals, unless U.S. State Department rates are requested and authorized by the commissioner of administration prior to departure. Receipts are required for lodging and for meals over the allowed rate.

§1523. Waivers

The commissioner of administration may waive in writing any provision in these regulations when the best interest of the state will be served.

Mark C. Drennan
Commissioner

9607#012

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Livestock Sanitary Board

Diseases of Animals—Equine Infectious Anemia Eradication Program (LAC 7:XXI.Chapter 117)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), R.S. 3:2093, and R.S. 3:2095, the Livestock Sanitary Board finds that this emergency rule setting forth the equine infectious anemia eradication program is required so that the eradication program can continue uninterrupted. The board has been advised of allegations that legal defects exist in the present equine infectious anemia eradication program. The board has been advised that in the event the alleged legal defects are found to exist, the equine infectious anemia eradication program would be interrupted. The board has found that the interruption to the present equine infectious anemia eradication program will occur. The resultant interruption in the equine infectious anemia eradication program would cause imminent peril to public health, safety, and welfare of the citizens of this state in that a major disease eradication program would be compromised. In order to insure that the equine infectious anemia eradication program remains in place and uninterrupted pending final adoption of this rule through the normal promulgation process, the board declares an emergency to exist and adopts by emergency process the

attached rule setting forth the equine infectious anemia eradication program. The effective date of this emergency rule is June 28, 1996, and it shall be in effect for 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

This declaration of emergency was adopted at a duly noticed and constituted meeting of the Livestock Sanitary Board on June 28, 1996.

Title 7

AGRICULTURE AND ANIMALS

Part XXI. Diseases of Animals

Chapter 117. Livestock Sanitary Board

Subchapter A. General Provisions

§11701. Definitions

* * *

Approved Livestock Auction Market—a place where livestock are assembled for sale, which is approved by the USDA to receive livestock restricted due to exposure to certain diseases and has a permit to operate issued by the Louisiana Livestock Sanitary Board.

* * *

Direct to Slaughter—the shipment of livestock from the premises of origin directly to a slaughter establishment without diversion to assembly points, such as auctions, public stockyards and feedlots.

Equine Infectious Anemia—an infectious disease of equine caused by a lentivirus characterized by intermittent fever, depression, weakness, edema, anemia and sometimes death. The disease is also known as Swamp Fever and is referred to hereafter and sometimes as EIA.

* * *

Form VS 1-27—a form which must be secured from state or federal personnel before livestock may be moved from the premises. This document will be valid for 15 days from the date of issuance.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 12:289 (May 1980), LR 12:498 (August 1986), LR 14:219 (April 1988), LR 15:812 (October 1989), LR 16:391 (May 1990), LR 17:29 (January 1991), LR 18:840 (August 1992), LR 22:

§11709. Livestock Auction Market Requirements

* * *

E. Duties of an Auction Veterinarian and/or State-Federal Personnel

1. - 8. ...

9. To draw blood samples on all equine for testing for Equine Infectious Anemia unless the equine is presented for sale with a record of an official test for EIA conducted within six months.

F. - H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:662, R.S. 3:665, R.S. 3:2221 and R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:233 (March 1985), amended LR 11:615 (June 1985), LR 22:

Subchapter C. Equine

§11759. General Requirements Governing the Admission of Equine

All equine imported into the state shall meet the general requirements of LAC 7:XXI.11705 and the following specific requirements:

All equine moving into Louisiana shall be accompanied by a record of a negative official test for Equine Infectious Anemia (EIA) conducted within the past 12 months. Equine consigned direct to slaughter to an approved slaughter establishment for immediate slaughter or to an approved livestock auction market are exempt from the requirement. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number and the date of the official test shall appear on the health certificate as required in LAC 7:XXI.11761.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April, 1994), LR 22:

§11761. Admission of Equine to Fairs, Livestock Shows, Breeders Association Sales, Rodeos and Racetracks

All equine consigned to fairgrounds, livestock show grounds, sale grounds, rodeos and racetracks must meet the general requirements of LAC 7:XXI.11707 and the following specific requirements:

1. It is recommended that all owners have their equine vaccinated against equine encephalomyelitis with bivalent (eastern and western type) vaccine within 12 months prior to entry.

2. Representatives of the Livestock Sanitary Board may inspect equine at the shows periodically, and any equine showing evidence of a contagious or infectious disease shall be isolated and/or removed from the show.

3. All equine moving into the state of Louisiana to fairs, livestock shows, breeder's association sales, rodeos, racetracks or any other concentration point, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted at an approved laboratory and the name of the laboratory, the case number, and the date of the official test shall appear on the record.

4. All equine moving within the state to fairs, livestock shows, breeder's association sales, rodeos, racetracks, or to any other concentration point shall be accompanied by a record of a negative official test for EIA conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the record of the test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:242 (March 1985), amended LR 11:615 (June 1985), LR 14:222 (April 1988), LR 20:405 (April 1994), LR 22:

§11763. Movement of Equine in Louisiana by Livestock Dealers

All equine which are sold or offered for sale by livestock dealers, must meet the general requirements of LAC 7:XXI.11709 and the following specific requirements:

All equine sold or offered for sale by permitted Louisiana livestock dealers, must be accompanied by a record of a negative official test for Equine Infectious Anemia, conducted at an approved laboratory, within the past six months. The record shall include the name of the laboratory, the case number and the date of the official test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:502.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:615 (June 1985), amended LR 14:223 (April 1988), LR 20:406 (April 1994), LR 22:

§11765. Equine Infectious Anemia and Livestock Auction Market Requirements

A. Identification. Prior to an official test for Equine Infectious Anemia (EIA), all equine shall be individually and permanently identified by one of the following means:

1. implanted electronic identification transponder with individual number;

2. individual lip tattoo;

3. individual hot brand or freeze brand.

B. Equine Required to be Tested

1. All equine moving into the state of Louisiana for any purpose other than direct to slaughter for immediate slaughter, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory. The name of the laboratory, the case number, and the date of the official test shall appear on the health certificate, as required in LAC 7:XXI.11761.

2. All equine moving within the state to fairs, livestock shows, breeders association sales, rodeos, racetracks, or to any other concentration point, shall be accompanied by a record of a negative official test for EIA, conducted within the past 12 months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the case number, and the date of the test shall appear on the record of the official test.

3. All equine sold or purchased in Louisiana shall have been officially tested negative for EIA within six months of the date of the sale or shall be officially tested negative for EIA at the time of sale or purchase. The official test shall be conducted at an approved laboratory. A record of the official test shall accompany the horse at the time of the sale or purchase and the name of the laboratory, the case number, and the date of the test shall appear on the record of the official test.

4.a. All equine offered for sale at Louisiana livestock auction markets must be accompanied by a record of a negative official test for EIA conducted by an approved laboratory within six months of the date of the sale, except as provided in this Subsection hereof.

Untested equine arriving at an approved livestock auction market shall have a blood sample drawn for official EIA testing. A fee of no more than \$18 shall be collected

from the seller and paid to the testing veterinarian by the auction market. The buyer of the equine shall be charged a \$5 identification fee which will be collected by the auction market before the equine leaves the auction market. This fee will be forwarded to the Louisiana Department of Agriculture and Forestry. After the blood sample is obtained and the fee paid, untested horses may move to the purchaser's premises under a quarantine issued by Louisiana Livestock Sanitary Board personnel until results of the official tests are received. The seller of any equine whose gross proceeds from the sale are less than \$50 will not be required to pay the fee for an official EIA test. If no veterinarian is available for official EIA testing of equine at a Louisiana livestock auction market, the testing shall be done by Louisiana Livestock Sanitary Board personnel.

b. Authorized buyers for approved slaughter establishments may request that any equine they have purchased at an approved livestock auction market be restricted to slaughter. After the request, such equine shall be branded with the letter "S" on the left shoulder prior to leaving the auction market and shall be issued a VS Form 1-27 permit. The branding and permit issuing shall be done by Louisiana Livestock Sanitary Board personnel.

5. All equine domiciled within the state of Louisiana shall be maintained with a current negative official test for Equine Infectious Anemia. A current negative official test is a written result of a test conducted by an approved laboratory where said official test was performed not more than 12 months earlier. An equine is domiciled within the state when the equine has been pastured, stabled, housed, or kept in any fashion in the state more than 30 consecutive days. Written proof of a current negative official test shall be made available in the form of negative results from an approved laboratory upon request by an authorized representative of the Louisiana Livestock Sanitary Board.

C. Identification and Quarantining of Equine Positive to the Official EIA Test

1. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, all equine testing positive to the official test for EIA shall be quarantined to the owners premises and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved livestock auction market or to an approved slaughter establishment. The owner or trainer of all equine stabled at a racetrack regulated by the Louisiana State Racing Commission testing positive to an official EIA test shall be notified immediately by the testing veterinarian, or by racetrack officials, or by Louisiana Livestock Sanitary Board personnel and the equine testing positive shall be removed from the racetrack premises immediately. Exceptions are:

a. Upon request by the owner, any female equine testing positive to the official test for EIA that is at least 270 days pregnant or has a nursing foal no more than 120 days of

age at her side may be quarantined to the owner's premises and kept at least 200 yards away from any other equine. The female equine shall be identified with a "72A" brand at least three inches in height on the left shoulder. The female equine may remain in quarantine until her foal dies or reaches an age of 120 days at which time the female equine shall be destroyed or sold for immediate slaughter within 20 days. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the female equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved livestock auction market or to an approved slaughter establishment.

b. Any foal kept in quarantine with its EIA positive dam shall be officially tested for EIA no later than 90 days after it is weaned.

c. Any equine testing positive to the official EIA test prior to February 1, 1994, may be quarantined to the owner's premises and kept at least two hundred yards away from any other equine. This equine shall be identified with a "72A" brand at least 3 inches in height on the left shoulder. If the EIA positive equine is sold, it must be sold for slaughter and a VS Form 1-27 permit must be issued by Livestock Sanitary Board personnel to move the EIA positive equine from the owner's premises to slaughter. If the EIA positive equine is destroyed or dies, verification of said destruction or death by written and signed statement must be furnished to the office of the state veterinarian.

d. Any EIA positive equine found in violation of this quarantine shall be required to be sold for slaughter or destroyed within 20 days.

2. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission, testing positive to the official EIA test and immediately removed from the racetrack, shall be quarantined to the premises to which they are moved and shall be destroyed or sold for immediate slaughter within 20 days of the date of the official test for EIA. If destroyed, verification of said destruction by written and signed statement must be furnished to the office of the state veterinarian. If sold for slaughter, the equine shall be accompanied by a VS Form 1-27 permit issued by Louisiana Livestock Sanitary Board personnel from the owner's premises to an approved livestock auction market or to an approved slaughter establishment.

3. With the exception of the equine stabled at a racetrack regulated by the Louisiana State Racing Commission, the following shall be quarantined and officially tested for EIA no sooner than 30 days after the positive equine has been removed:

a. all equine on the same premises as an equine testing positive to the official EIA test;

b. all equine on all premises within 200 yards of the premises of the equine testing positive to the official EIA test; and

c. all equine which have been on these aforementioned premises within the past 30 days at the time the equine which is positive to the official EIA test was tested.

4. All equine stabled at a racetrack regulated by the Louisiana State Racing Commission which are stabled in the same barn or in a directly adjacent barn of an equine which tests positive to the official EIA test shall be quarantined until the positive equine is removed and all other horses in the aforementioned barns are tested negative to the official EIA test.

5. Equine which are required to be officially tested for EIA as a result of being quarantined due to the circumstances described in §11765.C.3-4 may be tested by an accredited veterinarian chosen by the owner or by a state-employed veterinarian if requested by the owner of the quarantined equine. In the event that the official testing for EIA is done by a state-employed veterinarian, the record will not be made available to the owner.

6. Equine positive to the official test for EIA shall be identified with a "72A" brand on the left shoulder at least 3 inches in height, by Louisiana Livestock Sanitary Board personnel. Equine positive to the official test for EIA will be retested prior to identification by branding upon request by the owner, by Louisiana Livestock Sanitary Board personnel and the blood sample submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for confirmation.

D. Collection and Submission of Blood Samples

1. All blood samples for official EIA testing must be drawn by an accredited veterinarian and submitted to either an approved laboratory or the Louisiana Veterinary Medical Diagnostic Laboratory as provided herein. The seller of any equine which sells at an approved livestock auction market in which the gross proceeds from the sale are less than \$50 may request that the blood sample be drawn by Louisiana Livestock Sanitary Board personnel.

2. Blood samples for official EIA testing shall be accompanied by a VS Form 10-11, Equine Infectious Anemia Laboratory Test Report, with completed information as to the equine owner's name, address, telephone number, and permanent individual identification of the equine. The VS Form 10-11 shall be considered the official record for all official EIA tests conducted in Louisiana.

3. Only serum samples in sterile tubes shall be accepted for testing.

4. Blood samples drawn for EIA testing at Louisiana livestock auction markets and blood samples drawn for EIA testing by Louisiana Livestock Sanitary Board personnel shall be submitted to the Louisiana Veterinary Medical Diagnostic Laboratory for testing.

E. Testing of Blood Samples Collected

1. Only laboratories approved by the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services, shall be authorized to conduct the official test for EIA in Louisiana and such laboratories must also receive approval by the Louisiana Livestock Sanitary Board.

2. Approved laboratories shall submit the original (white copy) of each VS Form 10-11 at the end of each week to the Louisiana Livestock Sanitary Board office.

3. Approved laboratories may charge a fee to the accredited veterinarian for conducting the official test.

F. Requirements for a permit for the operation of an Equine Quarantine Holding Area

1. Any buyer desiring to operate an equine quarantine holding area must file an application for approval of the facility on forms to be provided by the Louisiana Livestock Sanitary Board.

2. The facility to be operated as an equine quarantine holding area, must have an area where equine testing positive to the official EIA test and/or "S" branded horses are kept and where such horses are separated by at least 440 yards from all other horses.

3. The facility must be approved by the Louisiana Livestock Sanitary Board in an inspection of the premises prior to the issuance of the permit.

4. The buyer desiring to operate an equine quarantine holding area, must agree, in writing, to comply with the rules and regulations of the Louisiana Livestock Sanitary Board.

5. No other equine except equine consigned for slaughter, shall be kept in an equine quarantine holding area.

6. No equine shall be kept in the equine quarantine holding area longer than 60 days.

7. All permits must be renewed annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 11:243 (March 1955), amended LR 11:615 (June 1955), LR 14:223 (April 1988), LR 14:697 (October 1988), LR 20:406 (April 1994), LR 20:1257 (November 1994), LR 22:

§11766. Equine Infectious Anemia Testing Laboratory Requirements

A. No person shall operate an Equine Infectious Anemia testing laboratory without first obtaining approval from the Louisiana Livestock Sanitary Board.

B. Conditions for Approving an Equine Infectious Anemia Testing Laboratory

1. The person must submit an application for approval to the office of the state veterinarian.

2. An inspection of the facility must be made by someone representing the office of the state veterinarian and who shall submit a report to the Louisiana Livestock Sanitary Board indicating whether or not the person applying for an Equine Infectious Anemia testing laboratory approval has the facilities and equipment which are called for in United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

3. The applicant must agree, in writing, to operate the laboratory in conformity with the requirements of the regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. The applicant must show the board that there is a need for the laboratory.

5. If the application is approved by the Louisiana Livestock Sanitary Board, the applicant will proceed with training, examination, and United States Department of Agriculture laboratory visitation.

6. Laboratory check test results shall be provided to the state veterinarian for final approval.

7. All Equine Infectious Anemia testing laboratories which have been approved by the United States Department of Agriculture, prior to the adoption of this regulation, shall be automatically approved at the time this regulation goes into effect.

C Conditions for Maintaining Equine Infectious Anemia Testing Laboratory Approval

1. Laboratories must maintain a work log clearly identifying each individual sample and tests results, which must be available for inspection, for a period of 18 months from the date of the test.

2. Laboratories must maintain on file and make available for inspection, a copy of all submitting forms for a period of 18 months.

3. Laboratories must continually meet all the requirements of United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

4. Samples shall be periodically collected and laboratories periodically inspected without prior notification.

5. Laboratories shall report, immediately, by telephone or telephonic facsimile, all positive results to the official test for EIA to the state veterinarian's office.

6. The state veterinarian shall renew the approval in January of each year, as long as laboratories maintain the standards required by this regulation and United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services Memorandum 555.8.

D. Cancellation of Equine Infectious Anemia Testing Laboratory Approval. An Equine Infectious Anemia testing laboratory may have its approval canceled if the Louisiana Livestock Sanitary Board finds, at a public hearing, that the laboratory has failed to meet the requirements of this regulation or has falsified its records or reports.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:2093.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Livestock Sanitary Board, LR 14:698 (October 1988), amended LR 20:408 (April 1994), LR 22:

Bob Odom
Commissioner

9607#013

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Advisory Commission on Pesticides**

**Pesticide Use Restrictions—Azinphos-Methyl
(LAC 7:XXIII.13138)**

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

The department has determined that these emergency rules

are necessary in order to implement a monitoring program and registration and permitting requirements during the current crop year. Information will be gathered to determine whether the effectiveness of this chemical outweighs any potential risk to the public or the environment. The rule becomes effective upon signature and will remain in effect 120 days.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 131. Advisory Commission on Pesticides

Subchapter I. Application of Pesticides

§13138. Application of Azinphos-Methyl

A. Registration Requirements

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

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

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

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

C. Azinphos-methyl Application Restriction

1. Application of Azinphos-methyl on sugarcane is limited to one application per season.

2. Do not apply by ground within 25 feet, or by air within 150 feet of lakes; reservoirs; rivers; permanent streams, marshes or natural ponds; estuaries and commercial fish farm ponds.

D. Procedures for Permitting Applications of Azinphos-methyl

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

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

- a. weather patterns and predictions;
- b. soil moisture;
- c. propensity for run-off;
- d. drainage patterns;

- e. quantity of acreage to be treated;
- f. extent and presence of vegetation in the buffer zone between application site and water body;
- g. water monitoring results;
- h. targeted pest must exceed the following prescribed thresholds: Yellow sugarcane aphid, 20-25 live aphids per leaf or sugarcane borer—a three-fold threshold (15 percent) i.e., one or more live borers in 15 different stalks per 100 stalks;
- i. Azinphos-methyl total acreage target shall not exceed 80,000 acres; and
- j. any other relevant data.

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

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

- 1. stop orders for use, sales, or application;
- 2. label changes;
- 3. remedial or protective orders;
- 4. any other relevant remedies.

Bob Odom
Commissioner

9607#016

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Structural Pest Control Commission**

One Day to Make a Difference—Pest Management

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

The members of the Louisiana Pest Control Association (the "association") have scheduled June 11, 1996 through July 11, 1996, for its "One Day to Make a Difference" activity. During this month, members of the association will work to help individuals and organizations in need better their quality of life through improved pest management by donating pest control services at locations that are in need of, but unable to afford such services.

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

Rule 1. The regulations described below are declared suspended and will not be enforced in connection with structural pest control work performed by members of the

Louisiana Pest Control Association in connection with that association's "One Day to Make a Difference" program:

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

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

Jackson Street Thibodaux, LA	1528 Rex Street Shreveport, LA 71101
North 23rd Street Baton Rouge, LA	103 Mallard Street West Monroe, LA 71291
941 Daniel Street Shreveport, LA 71106	944 Madison Avenue Shreveport, LA 71103
2950 Montana Street Shreveport, LA 71107	1759 Jessie Owens Street Shreveport, LA 71107
Main Street Baton Rouge, LA	336 68th Street Shreveport, LA 71106
1943 Street Shreveport, LA 71101	2821 Peach Street Shreveport, LA 71107
3006 Skelly Street Shreveport, LA 71107	

The effective date of these rules is 12:01 a.m. June 11, 1996, and it shall remain in effect until 12:01 a.m. July 11, 1996.

Bob Odom
Commissioner

9607#010

DECLARATION OF EMERGENCY

**Department of Civil Service
Board of Ethics for Elected Officials**

Lobbyists Required Registration and Reporting

The Department of Civil Service, Board of Ethics for Elected Officials, at its June 27, 1996 meeting, declared an emergency rule, pursuant to R.S. 49:953(B). This emergency rule provides forms enabling lobbyists to register, change registrations and file the Expenditures Report due August 15, 1996.

In order to comply with Acts 64 and 68 of the recent Special Session of the 1996 Louisiana Legislature, the board is promulgating, in this emergency rule, registration and reporting forms to accommodate the required registration and reporting by lobbyists. Severe penalties can be imposed upon lobbyists who fail to file the required reports. Additionally, if the reporting form is not prepared and distributed by the board, the public's interest will be damaged as the information

regarding lobbyists' registration and expenditures will not be made available.

Additionally the board declared that registrations may be accepted on forms of the Legislative Lobbying Commission until November 30, 1996.

This emergency rule is effective July 3, 1996 and shall be in effect for the maximum period allowed by R.S. 49:950 et seq. or until a final rule takes effect, whichever occurs first.

Form 1

LOBBYING EXPENDITURE REPORT

COVERING JANUARY 1 THROUGH JUNE 30, 1996

DUE AUGUST 15, 1996

Lobbyist's Registration Number _____

FOR OFFICE USE ONLY

Postmark Date: _____

Instructions

- Print in ink or type.
- Fill in Registration Number in spaces provided.
- Complete form, have it notarized and return to the Board of Ethics, 8401 United Plaza Blvd., Suite 200, Baton Rouge, LA 70809 (504) 922-1400
- **This form must be delivered or postmarked by the due date.**
- This form may be faxed to (504) 922-1414. **The original should be forwarded on the day of fax transmittal.**

1. NAME _____

Last
First
MI
2. BUSINESS ADDRESS _____

Street and Number

City
State
Zip
3. BUSINESS PHONE _____

Area Code and Telephone Number
4. Total of all Expenditures made during this reporting period: \$ _____
5. Did you make aggregate expenditures exceeding the sum of \$100 for any one legislator on any one occasion during the reporting period?

Yes
No

6. If the answer to Number 5 above is YES, please provide the name of each legislator for whom you made aggregate expenditures of \$100 or more on one occasion and the total amount of expenditures for each named legislator for the reporting period.

Legislator's Name	Amount
Legislator's Name	Amount
Legislator's Name	Amount
(Please make additional listings on a separate sheet)	

7. Did you make aggregate expenditures exceeding the sum of \$1,000 (or \$2,000, if you have filed five or more authorization statements) for any one legislator during this reporting period?

Yes No

8. If the answer to Number 7 above is YES, please provide the name of each legislator on whom you made aggregate expenditures of \$1,000 (\$2,000 if applicable) or more during this reporting period and the total amount of expenditures for each named legislator for the reporting period:

Legislator's Name	Amount
Legislator's Name	Amount
Legislator's Name	Amount
(Please make additional listings on a separate sheet)	

9. If you expended funds for one or more receptions or social gatherings to which the entire legislature or any segment as provided in La. R.S. 24:55(F)(1) was invited, please provide the name(s) of the group(s) invited, the date and location of the reception or social gathering, and a statement of the total expenditures for each event:

Name of group(s) invited to event		
Location of event	Date of event	Total expenditures for event
Name of group(s) invited to event		
Location of event	Date of event	Total expenditures for event
(Please make additional listings on a separate sheet)		

State of _____
 Parish of _____
 Before me, the undersigned authority, personally came and appeared _____, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

 Signature of Lobbyist

Sworn to and subscribed before me on this _____ day of _____, 19 ____.

 Notary Public

Form 2

LOBBYING REGISTRATION FORM
 To be used for initial registrations and renewals. Registrations expire on January 31 unless a renewal is submitted between December 1 and January 31.

Lobbyist's
 Registration
 Number _____

FOR OFFICE USE ONLY
 Postmark
 Date: _____

Instructions

- Print in ink or type.
- Complete form, have it notarized and return with \$10 registration fee to the Board of Ethics, 8401 United Plaza Blvd., Suite 200 Baton Rouge, LA 70809-7017, (504) 922-1400.
- Initial registrations must be submitted within 5 days of (1) employment as a lobbyist or (2) first action requiring registration. Renewals must be submitted between December 1 and January 31.
- Complete employer verification form(s) for each employer and each person you represent as listed below.

1. NAME _____
 Last First MI
2. BUSINESS PHONE _____
 Area Code and Phone Number
3. BUSINESS ADDRESS _____
 Street and No. City State Zip
4. EMPLOYER _____
5. EMPLOYER'S ADDRESS _____
 Street and No. City State Zip

6. LIST BELOW (a) Names of persons, groups, or organizations which you represent; (b) the address of each such person, group, or organization you represent; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby. R.S. 24:53(C) REQUIRES THAT A VERIFICATION FORM BE SIGNED BY EACH PERSON YOU REPRESENT OR WHO EMPLOYS YOU. THOSE FORMS MUST MATCH THIS LISTING.

1. Name _____
 Address _____
 Business or purpose _____
 Does this person pay you? _____
 If No, who pays you? _____
2. Name _____
 Address _____
 Business or purpose _____
 Does this person pay you? _____
 If No, who pays you? _____
3. Name _____
 Address _____
 Business or purpose _____
 Does this person pay you? _____
 If No, who pays you? _____

4. Name _____
 Address _____
 Business or purpose _____
 Does this person pay you? _____
 If No, who pays you? _____
5. Name _____
 Address _____
 Business or purpose _____
 Does this person pay you? _____
 If No, who pays you? _____

State of _____
 Parish of _____

Before me, the undersigned authority, personally came and appeared _____, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

Signature of Lobbyist _____
 Sworn to and subscribed before me on this ____ day of _____, 19__.

 Notary Public

ATTACH
 2" x 2"
 PHOTOGRAPH
 HERE
 FOR
 INITIAL
 REGISTRATION
 ONLY

Rev. 6/96

Form 3

LOBBYING SUPPLEMENTAL REGISTRATION FORM
 To be used for changes to registrations and terminations.

Lobbyist's
 Registration
 Number _____

FOR OFFICE USE ONLY
 Postmark
 Date: _____

Instructions

- Print in ink or type.
- Complete form, have it notarized and return with \$10 fee to Board of Ethics, 8401 United Plaza Blvd., Suite 200 Baton Rouge LA 70809-7017, (504) 922-1400.
- This form must be submitted within 5 days of any changes in your registration form to add employers or those you represent or if you cease all activities requiring registration. It must be submitted within 10 days of any terminations of employment or representations.
- Complete employer verification form(s) must be submitted for each additional representation.

1. NAME _____
 Last First MI
2. BUSINESS PHONE _____
3. BUSINESS ADDRESS _____
 Street and No. City State Zip
4. EMPLOYER _____

5. EMPLOYER'S ADDRESS _____

Form 4

Street and No. City State Zip

6. Have you ceased or terminated all lobbying activities requiring registration? Yes _____ No _____

7. LIST BELOW (a) Names of persons, groups, or organizations which you are adding or eliminating; (b) the address of each such person, group, or organization listed; (c) the type of business each is engaged in or the purpose or function of the organization or group; (d) whether or not the client or someone else pays you to lobby; and (e) the date of termination if applicable. R.S. 24:53(C) REQUIRES THAT A VERIFICATION FORM BE SIGNED BY EACH PERSON YOU REPRESENT OR WHO EMPLOYS YOU. THOSE FORMS MUST MATCH THE NAMES ADDED BELOW.

- Name _____
 Address _____
 Business or purpose _____
 New Representation
 Does this person pay you? _____
 If No, who pays you? _____
 Terminated Representation as of _____

LOBBYING REGISTRATION
EMPLOYER
VERIFICATION FORM

Lobbyist's
Registration
Number _____

Instructions

- Print in ink or type.
- Complete form, have it notarized and return to Board of Ethics, 8401 United Plaza Blvd., Suite 200 Baton Rouge, LA 70809-7017 (504) 922-1400.
- This form must be submitted within 10 days of lobbyist's registration, supplemental registration or renewal registration - **A lobbyist's registration is NOT complete unless this form is submitted for each representation listed on the registration form, supplemental registration form or renewal registration.**

FOR OFFICE
USE ONLY
Postmark
Date: _____

Form 3A

SUPPLEMENTAL REGISTRATION
FORM

Lobbyist's
Registration
Number _____

- Name _____
 Address _____
 Business or purpose _____
 New Representation
 Does this person pay you? _____
 If No, who pays you? _____
 Terminated Representation as of _____
- Name _____
 Address _____
 Business or purpose _____
 New Representation
 Does this person pay you? _____
 If No, who pays you? _____
 Terminated Representation as of _____

State of _____
Parish of _____

I hereby verify that _____
Name of registrant
is authorized to represent _____
Name of Employer, Person, Group or Organization Represented
before the Louisiana Legislature for the calendar year 199__.

Name of Authorizing Official (Type or print)

Signature of Authorizing Official

Title

Sworn to and subscribed before me on this _____ day of _____, 199__.

Notary Public (Type or print)

Signature of Notary Public

Rev. 6/96

R. Gray Sexton
Executive Secretary

9607#029

DECLARATION OF EMERGENCY

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

Chemical Accident Prevention (LAC 33:III.Chapter 59)
(AQ126E)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the

State of _____
Parish of _____

Before me, the undersigned authority, personally came and appeared _____, who, after being duly sworn by me, did declare and acknowledge to me that the above statements are true and correct.

Signature of Lobbyist

Sworn to and subscribed before me on this _____ day of _____, 19__.

Notary Public

Rev. 6/96

authority of R.S. 30:2011, the secretary of the Department of Environmental Quality (DEQ) declares that an emergency action is necessary because the current rule LAC 33:III.Chapter 59 provides only for the registration of facilities with regulated substances over a threshold quantity. In the wake of recent events, it is apparent that a problem with accidents and accidental releases involving toxic, flammable or explosive substances needs immediate attention. Without these rules, the people and environment of the state of Louisiana could be exposed to imminent peril from this problem. Failure to adopt these rules through the emergency procedure will delay the implementation of procedures required to provide for the prevention of accidents and the minimization of the off-site consequences of such accidents.

This emergency rule is effective on July 5, 1996, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever comes first.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5902. General Duty

The owners and operators of stationary sources producing, processing, handling, or storing substances listed in LAC 33:III.5905.Tables 59.1 and 59.2, mentioned in LAC 33:III.5905.A, or listed in Table 59.3, have a general duty in the same manner and to the same extent as Section 654 of Title 29 of the United States Code (Occupational Safety and Health Act) to identify hazards that may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility, and to minimize the consequences of accidental releases of such substances that do occur. For the purposes of this Section the provisions of R.S. 30:2026 (Citizen Suits) shall not be available to any person or otherwise be construed to be applicable to this Section. Nothing in this Section shall be interpreted, construed, implied, or applied to create any liability or basis for suit for compensation for bodily injury or any other injury or property damages to any person that may result from accidental releases of such substances.

Table 59.3		
Supplemental List of Regulated Substances and their Threshold Quantities for Accidental Release Prevention		
CAS Number	Chemical Name	Threshold planning quantity (pounds)
Varies	Alkylaluminums	5000
107-05-1	Allyl chloride	1000
7790-98-9	Ammonium perchlorate	7500
7787-36-2	Ammonium permanganate	7500
13863-41-7	Bromine chloride	1500

7789-30-2	Bromine pentafluoride	2500
7787-71-5	Bromine trifluoride	15000
106-96-7	Bromopropyne (3-) (Propargyl bromide)	100
75-91-2	Butyl hydroperoxide (tertiary)	5000
614-45-9	Butyl perbenzoate (tertiary)	7500
353-50-4	Carbonyl fluoride	2500
9004-70-0	Cellulose nitrate (Conc>12.6 percent nitrogen)	2500
13637-63-3	Chlorine pentafluoride	1000
7790-91-2	Chlorine trifluoride	1000
97-00-7	Chloro-2,4-dinitrobenzene (1-)	5000
96-10-6	Chlorodiethylaluminum	5000
76-06-2	Chloropicrin	500
None	Chloropicrin and methyl bromide mixture	1500
None	Chloropicrin and methyl chloride mixture	1500
80-15-9	Cumene hydroperoxide	5000
675-14-9	Cyanuric fluoride	100
110-22-5	Diacetyl peroxide (Conc>70 percent)	5000
334-88-3	Diazomethane	500
94-36-0	Dibenzoyl peroxide	7500
110-05-4	Dibutyl peroxide (tertiary)	5000
7572-29-4	Dichloro acetylene	250
557-20-0	Diethylzinc	10000
105-64-6	Diisopropyl peroxydicarbonate	7500
105-74-8	Dilauroyl peroxide	7500
97-02-9	Dinitroaniline (2,4-)	5000
1338-23-4	Ethyl methyl ketone peroxide (Conc>60 percent)	5000
371-62-0	Ethylene fluorohydrin	100
684-16-2	Hexafluoroacetone	5000
10035-10-6	Hydrogen bromide	5000
7722-84-1	Hydrogen peroxide (conc>=52 percent by weight)	7500
7803-49-8	Hydroxylamine	2500

463-51-4	Ketene	100
78-85-3	Methacrylaldehyde	1000
920-46-7	Methacryloyl chloride	150
30674-80-7	Methacryloyloxyethyl isocyanate	100
74-83-9	Methyl bromide	2500
453-18-9	Methyl fluoroacetate	100
421-20-5	Methyl fluorosulfate	100
74-88-4	Methyl iodide	7500
79-84-4	Methyl vinyl ketone	100
100-01-6	Nitroaniline(p-)	5000
7783-54-2	Nitrogen trifluoride	5000
10544-73-7	Nitrogen trioxide	250
75-52-5	Nitromethane	2500
20816-12-0	Osmium tetroxide	100
7783-41-7	Oxygen difluoride	100
19624-22-7	Pentaborane	100
7601-90-3	Perchloric acid (Conc>60 percent by weight)	5000
7616-94-6	Perchloryl fluoride	5000
627-13-4	Propyl nitrate	2500
107-44-8	Sarin	100
7783-79-1	Selenium hexafluoride	1000
7803-52-3	Stibine (Antimony hydride)	500
5714-22-7	Sulfur pentafluoride	250
7783-80-4	Tellurium hexafluoride	250
10036-47-2	Tetrafluorohydrazine	5000
7719-09-7	Thionyl chloride	250
1558-25-4	Trichloro(chloromethyl)silane	100
27137-85-5	Trichloro(dichlorophenyl)silane	2500
2487-90-3	Trimethoxysilane	1500

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5903. Definitions

The terms in this Chapter are used as defined in LAC 33:III.111 except those terms specifically defined in an applicable subchapter or defined herein as follows:

* * *

[See Prior Text]

BATF—the Bureau of Alcohol, Tobacco, and Firearms.

CAS—Chemical Abstract Service.

Covered Process—a process that has a regulated substance present in more than a threshold quantity as determined under LAC 33:III.5905.

Full-time Employee—2,000 hours per year of full-time equivalent employment. A source would calculate the number of full-time employees by totaling the hours worked during the calendar year by all employees, including contract employees, and dividing that total by 2,000 hours.

Major Stationary Source—for the purposes of LAC 33:III.5901, 5902, 5903, and 5911, a stationary source that is classified or would be classified as an A-1 or A-2 source in the Compliance Data System (CDS) maintained by the department, that emits or has the potential to emit 25 tons per year or more of a criteria pollutant (VOC, NO_x, CO, SO₂, PM₁₀, or lead); for the purposes of all other portions of LAC 33:III. Chapter 59, a stationary source that is classified or would be classified as an A-1 or A-2 source in the Compliance Data System (CDS) maintained by the department, that emits or has the potential to emit 25 tons per year or more of a criteria pollutant (VOC, NO_x, CO, SO₂, PM₁₀, or lead), and in addition has a covered process in Standard Industrial Classification (SIC) Code 2611, 2812, 2819, 2821, 2869, 2873, 2879, or 2911.

Mitigation System or Mitigation—activities, technologies, or equipment that is designed to capture or control substances after they are released to the environment or upon loss of containment. Passive mitigation means equipment, devices, or technologies that function without human, mechanical, or other energy input.

* * *

[See Prior Text]

Process—any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances or combinations of these activities, identified by its intended primary activity. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release

from those separate vessels, may be considered a single process.

* * *

[See Prior Text]

Regulated Substance—any substance listed in the Chapter 59 tables or an explosive classified by the U.S. Department of Transportation as Division 1.1 (49 CFR part 172.102) that is defined as an explosive that has a mass explosion hazard.

* * *

[See Prior Text]

Stationary Source—any buildings, structures, equipment, installations, or substance emitting stationary activities:

- a. which belong to the same industrial group;
- b. which are located on one or more contiguous properties;
- c. which are under the control of the same person (or persons under common control); and
- d. from which an accidental release may occur.

[See Prior Text]

Worst-case Release—the release of one or more regulated substances that has the worst off-site consequences determined by hazard assessment as specified in LAC 33:III.5913. This must be determined by using good engineering judgment. The owner or operator shall first consider the case of the release of the largest quantity of a regulated substance resulting from a single vessel failure or single process line failure. The owner or operator shall also consider the release of a possibly smaller quantity of a regulated substance resulting from a single vessel failure or single process line failure from a vessel or process line in closer proximity to the property line. In determining the worst-case release the owner or operator shall consider the effect of an explosion on nearby vessels and include their contents in the release, if appropriate, or provide documentation if there is no additional impact. Hazard assessments including dispersion modeling of several cases may be required to determine the worst-case release. It shall be assumed that well-designed and well-maintained passive mitigation systems function, but active mitigation systems fail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:

§5905. Threshold Determination

A. More than a threshold quantity of a regulated substance as listed in Table 59.1 or 10,000 pounds of any regulated substance listed in 59.2 is present at a major stationary source if the total quantity of the regulated substance contained in a process exceeds the threshold quantity. Crude oil and petroleum fractions shall not be considered single compounds, even if they have been assigned CAS numbers. More than a threshold quantity of an explosive is present at a major stationary source if the total quantity present on-site exceeds 5,000 pounds and if it is classified by the U.S. Department of Transportation as Division 1.1 (49 CFR part 172.102), that is, defined as an explosive that has a mass explosion hazard.

B. For the purposes of determining whether more than a threshold quantity of a regulated substance is present at the major stationary source, the following applies:

[See Prior Text in B.1-6.c]

7. Specific Exemptions

a. Regulated materials that are under active shipping papers (i.e., have not reached their final destination) are exempt provided that:

i. shipping documents are readily accessible to emergency response personnel and proximate to the regulated

material; and

ii. all regulated material is properly marked and placarded according to applicable U.S. Department of Transportation regulations as listed in 49 CFR 172 (Hazardous Materials Tables, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), subparts B, C, D, E, and F.

b. Pipelines, transfer stations, and other activities regulated by the U.S. Department of Transportation under 49 CFR 192, 193, and 195 (Transportation of Natural and Other Gas by Pipeline, Liquefied Natural Gas Facilities, and Transportation of Hazardous Liquids by Pipeline) as transportation of hazardous substances by pipeline or incident to such transportation are exempt. However, loading and unloading equipment for shipping and bulk storage associated with such equipment shall not be exempt.

TABLE 59.1		
THE LIST OF REGULATED TOXIC SUBSTANCES AND THEIR THRESHOLD QUANTITIES FOR ACCIDENTAL RELEASE PREVENTION (ALPHABETICAL ORDER)		
CAS Number	Chemical Name	Threshold planning quantity (pounds)

[See Prior Text in Acrolein-Nitric Oxide]		
10544-72-6	Nitrogen Tetroxide	250

[See Prior Text in Oleum-Table 59.2]		

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:422 (April 1994), amended LR 22:

§5909. Applicability

A. Tier 1. The owner or operator of a major stationary source with a covered process as defined in LAC 33:III.5903 that meets the eligibility criteria of LAC 33:III.5912.A shall comply for that covered process with LAC 33:III.5911 by the date specified therein and LAC 33:III.5912.A no later than November 8, 1998.

B. Tier 2. Except as provided in Subsections A, C, and D of this Section, the owner or operator of a major stationary source with a covered process shall comply for that covered process with LAC 33:III.5911 by the date specified therein and LAC 33:III.5912.B no later than November 8, 1998.

C. Tier 3. Except as provided in Subsection A of this Section, the owner or operator of a major stationary source with 100 or more full-time employees shall comply with LAC 33:III.5911 at the date specified therein and LAC 33:III.5913-5941 no later than November 8, 1998 for any covered process in Standard Industrial Classification (SIC) Code 2611, 2812, 2819, 2821, 2869, 2873, 2879, or 2911. For all other covered

processes at the major stationary source, the owner or operator shall comply with LAC 33:III.5911 at the date specified therein and LAC 33:III.5912.B no later than November 8, 1998.

D. Deferred Tier 3. Except as provided in Subsection A of this Section, the owner or operator of a major stationary source that has 20 or more full-time employees, but less than 100 full-time employees and a covered process in SIC Code 2812, 2819, 2869, 2873, or 2911 shall:

1. comply for that covered process with LAC 33:III.5911 at the date specified therein and LAC 33:III.5912.B no later than November 8, 1998; and

2. comply for that covered process with LAC 33:III.5911 at the date specified therein and LAC 33:III.5913-5941 no later than November 8, 2003.

E. Facility Tier Assignment. The overall facility (the major stationary source) shall be assigned to the same tier as the process having the most stringent tier assignment in the major stationary source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:

§5911. Registration

* * *

[See Prior Text in A]

B. The registration shall include the following:

1. the name of the major stationary source, and its street address, mailing address, parish name, and telephone number;

* * *

[See Prior Text in B.2-4]

5. the name, address, and telephone number of a knowledgeable contact person with overall responsibility as referenced in LAC 33:III.5917.B;

6. the following certification signed by the owner or operator: "The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete";

7. registrations after the date consistent with rules developed under section 112(r) of the federal Clean Air Act Amendments of 1990 shall include the additional phrase, "I certify that I prepared or caused to be prepared a risk management plan that complies with 40 CFR 68.50" [and, when applicable: "and the provisions of 40 CFR 68.60"] "and that I submitted or caused to be submitted copies of the risk management plan to each of the entities listed in 40 CFR 68.50(a)." [Signature];

8. the total number of full-time employees at the major stationary source;

9. the list of the processes at the major stationary source with the SIC code, Louisiana permit number (if any), CDS number (if known), the latitude and longitude of the facility and each process, the universal transverse mercator (UTM) coordinates of the facility (if known), the A-1 or A-2 classification of the facility, and tier assignment, according to LAC 33:III.5909, of each process and facility;

10. the name, address, and telephone number of a contact

person who is responsible for invoicing; and

11. the company name (if different from the source name) and its mailing address and telephone number.

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended registration within 60 days to the administrative authority* and the department. However, major stationary sources that registered under this Section prior to November 8, 1995 have until March 7, 1996 to supply the information required in Subsection B.1, 8, 9, 10 and 11 of this Section. After a final determination of necessary revisions under LAC 33:III.5943.F, the owner or operator shall register the revised risk management plan by the date required in LAC 33:III.5943.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:

Subchapter B. Risk Management Program Requirements

§5912. Simplified Compliance for Certain Major Stationary Sources

A. No-impact Sources (Tier 1)

1. Sources That Exceed a Threshold Quantity Only for Flammable or Explosive Regulated Substances

a. Eligibility. The owner or operator of a major stationary source that is subject to this Chapter and that does not exceed the threshold quantity for a toxic substance shall comply with Subsection A.1.b of this Section if the source has not had a significant accidental release for five years preceding November 8, 1995 and:

i. for a source that exceeds the threshold for an explosive regulated substance, the source is subject to 27 CFR part 55 (Alcohol, Tobacco Products, and Firearms; Commerce in Explosives) or 30 CFR part 56, 57, or 77 (Mineral Resources; Safety and Health Standard - Surface Metal and Nonmetal Mines; Safety and Health Standard - Underground Metal and Nonmetal Mines; Mandatory Safety Standards, Surface Coal Mines and Surface Work Areas of Underground Coal Mines) and the distance from the process to a public or environmental impact is not closer than the distance to inhabited buildings provided in the American Table of Distances (27 CFR 55.218, Alcohol, Tobacco Products, and Firearms; Commerce in Explosives; Storage; Table of Distances for Storage of Explosive Material) for the quantity of explosives in the process; or

$$Distance(meters) = 0.15 \times (0.1 \times mass \times hc)^{\frac{1}{3}}$$

ii. for a source that exceeds the threshold for a flammable regulated substance, the distance from the point of release under the worst-case release scenario to a public or environmental impact is greater than the distance as calculated using the following formula for the maximum quantity present in the process:

Where:

mass = quantity of flammable substance in kilograms

hc = heat of combustion in joules per kilogram.

b. Program and Plan Requirements

i. The owner or operator shall place a sign at all normal access routes that warns the public and emergency responders concerning the hazard presented by the regulated substance at the site and provides an emergency contact telephone number. Such a sign shall be in English and any other language commonly spoken as a primary language in the area.

ii. The owner or operator shall submit the following as a risk management plan to the department, the Louisiana Emergency Response Commission, and the Local Emergency Planning Committee (LEPC) with jurisdiction for the area where the source is located:

(a). a copy of the registration required by LAC 33:III.5911 (this copy may be dated before the certification required by LAC 33:III.5911.B.6);

(b). the following statement:

"Based on the criteria in LAC 33:III.5912.A.1.a, the worst-case accidental release for the source described on the attached form (registration) presents no potential for public or environmental impact, given the nature of the process and the chemicals stored at the source. For the past five years this source has not had a significant accidental release, as defined in LAC 33:III.5903. No additional measures are necessary to prevent public and environmental impacts from accidental releases. In the event of a fire or a release of the regulated substance indicated on the registration, entry within [distance for a given quantity of regulated substance under American Table of Distances (27 CFR 55.218, Alcohol, Tobacco Products, and Firearms; Commerce in Explosives; Storage; Table of Distances for Storage of Explosive Material) or LAC 33:III.5912.A.1.a.ii] of the source may pose a danger to public emergency responders. Therefore, public emergency responders should not enter this area except as arranged with the contact person indicated on the registration or as authorized by R.S. 30:2376. The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete."

[Signature]

iii. The owner or operator shall maintain for five years documentation of the determination of eligibility under Subsection A.1.a of this Section and a copy of the risk management plan under Subsection A.1.b.ii of this Section.

2. Sources That Exceed a Threshold Quantity for Toxic Regulated Substances.

a. Eligibility. The owner or operator of a major stationary source that exceeds the threshold quantity for a toxic substance shall comply with Subsection A.2.b of this Section if:

i. the major stationary source has not had a significant accidental release in the last five years;

ii. the major stationary source can demonstrate that the lookup table distance (or distance calculated by other methods listed in LAC 33:III.5913.E.2) for a worst-case release is less than the distance to a public or environmental

receptor; and

iii. the emergency response plan under 42 U.S.C. 11003 (Emergency Planning and Community Right-to-Know Act; Subtitle A: Emergency Planning and Notification; Comprehensive Emergency Response Plans) addresses appropriate response to an accidental release at the source.

b. Program and Plan Requirements

i. The owner or operator of a major stationary source that meets the eligibility criteria of Subsection A.2.a of this Section shall submit the following as a risk management plan to the department, the Louisiana Emergency Response Commission, and the LEPC with jurisdiction for the area where the source is located:

(a). a copy of the registration required by LAC 33:III.5911 (this copy may be dated before the certification required by LAC 33:III.5911.B.6); and

(b). the following statement:

"Based on the criteria in LAC 33:III.5912.A.2.a, the worst-case accidental release for the source described on the attached form (registration) presents no potential for public or environmental impact within [insert value calculated under Subsection A.2.a.ii of this Section] kilometers of the source, given the nature of the process and the chemicals stored at the source. For the past five years, this source has not had a significant accidental release, as defined in LAC 33:III.5903. No additional measures are necessary to prevent public and environmental impacts from accidental releases. In the event of an accidental release of the regulated substance indicated on the registration, emergency response should be conducted according to the emergency response plan under 42 U.S.C. 11003 (Emergency Planning and Community Right-to-Know Act; Subtitle A: Emergency Planning and Notification; Comprehensive Emergency Response Plans), which is available at [location]. Therefore, public emergency responders should not enter this area except as provided under that plan or as authorized by R.S. 30:2376. The undersigned certifies that, to the best of my knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete."

[Signature].

ii. The owner or operator shall maintain for five years documentation of the determination of eligibility under Subsection A.2.a of this Section and a copy of the risk management plan under Subsection A.2.b.i of this Section.

B. Streamlined Risk Management Program (Tier 2)

1. The owner or operator of a major stationary source eligible for this Subsection shall comply with LAC 33:III.5913.

2. The owner or operator of a major stationary source shall establish a prevention program, which includes safety precautions and maintenance, monitoring, and employee training measures to be used at the source to prevent accidental releases. The prevention program shall identify other federal accident prevention requirements to which the source is subject, including national voluntary standards and measures required by section 112(r)(1) of the federal Clean Air Act.

3. The owner or operator of a major stationary source shall prepare an emergency response program, which

documents specific actions to be taken in an emergency response to an accidental release, including:

- a. procedures for informing the public and local entities about accidental releases;
- b. procedures to be used on site to respond to an accidental release; and
- c. a description of the employee training measures used to educate employees regarding emergency situations.

4. The owner or operator of a major stationary source shall submit a risk management plan summarizing Subsections B.1-3 of this Section to the department, the Louisiana Emergency Response Commission, and the LEPC with jurisdiction for the area where the source is located. The owner or operator shall retain a copy of the risk management plan for five years.

C. Alternate Means of Compliance for Tier 3 Sources

1. A Tier 3 major stationary source may elect to satisfy the requirements of LAC 33:III.5915 and 5919-5935 by meeting the requirements of 29 CFR 1910.119 (Labor; Occupational Safety and Health Standards; Process Safety Management (PSM) of Highly Dangerous Materials). A Tier 3 major stationary source electing this option shall be exempt from the requirements of LAC 33:III.5915 and 5919-5935 if it meets all the requirements of 29 CFR 1910.119 and Subsection C.2 of this Section. The department may then enforce and audit the requirements of 29 CFR 1910.119 used to satisfy the requirements of this Chapter. The exemptions listed under 29 CFR 1910.119(a) shall not apply under this Subsection unless they are listed as exemptions elsewhere in this Chapter.

2. A Tier 3 major stationary source electing to comply with the provisions of this Subsection shall do a supplementary review of the Process Hazard Analysis (PHA) required by 29 CFR 1910.119(e) to determine any off-site consequences not addressed by the PHA. Both the potential hazards and the action items for the potential hazards in the PHA shall be reviewed for off-site consequences, using the same methodology as in the PHA. Any off-site consequences so determined shall then be dealt with as additional items under 29 CFR 1910.119. Also, a significant accidental release shall be investigated and reported in the same manner as an incident involving a catastrophic release under 29 CFR 1910.119.

3. A Tier 3 major stationary source electing to comply with the provisions of this Subsection shall do a hazard assessment according to LAC 33:III.5913, documentation of a management system according to LAC 33:III.5917, an emergency response program according to LAC 33:III.5937, and a risk management program according to LAC 33:III.5939 on the basis of the requirements of 29 CFR 1910.119 and the additions from the supplementary review under Subsection C.2. of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5913. Hazard Assessment

A. The purpose of the hazard assessment is to evaluate the impact of significant accidental releases on the public health

and environment and to develop a history of such releases.

B. Hazard assessments shall be conducted for each regulated substance present at the stationary source above the threshold quantity. For each regulated substance the hazard assessment shall include the following steps:

1. determine a single worst-case release scenario for all flammables at the stationary source and a single worst-case release scenario for all explosives. Determine a single worst-case scenario for all toxic regulated substances for each process at the major stationary source; the worst-case scenario for each covered process must be substantiated for each toxic regulated substance. Report all worst-case scenarios, including the worst-case scenarios for toxics for every covered process at the major stationary source, in the risk management plan required under LAC 33:III.5939. Provide documentation substantiating all worst-case scenarios for all processes and all substances to the department on request;

2. identify other more likely significant accidental releases for each process where the regulated substance is present above the threshold quantity, including processes where the substance is manufactured, processed, or used, and where the regulated substance is stored, loaded, or unloaded. Identify a single more likely release scenario for all flammables and a single more likely release scenario for all explosives, but a separate more likely release scenario for each toxic regulated substance at the major stationary source;

3. analyze the off-site consequences of the worst-case release scenarios and the other more likely significant accidental release scenarios identified in Subsection B.2 of this Section; and

4. develop a history of significant accidental releases of each regulated substance beginning five years before November 8, 1995.

C. To determine a worst-case release scenario, the owner or operator shall examine each process handling each regulated substance. The owner or operator shall assume that gaseous substances are released in 10 minutes. The owner or operator shall assume that liquid substances form a pool in 10 minutes, with the release rate to the air determined by volatilization, unless dispersion by explosion or other factors could be involved. The owner or operator shall at least examine the case of the release of the largest quantity of a regulated substance resulting from a vessel or process line failure for each process. The owner or operator shall assume that well-designed and well-maintained passive mitigation systems function but active mitigation systems fail.

D. The owner or operator shall determine other more likely significant accidental releases such as, but not limited to:

1. transfer hose failure, excess flow valve or emergency shutoff failure, and subsequent loss of piping and shipping container contents (truck or rail);

2. process piping failure and loss of contents from both directions from the break;

3. vents directly to the atmosphere from pressure relief devices; and

4. reactor or other process vessel failure where the contents are at temperatures and pressures above ambient conditions. In these situations well-designed and well-

maintained active mitigation systems and well-designed and well-maintained passive mitigation systems are assumed to work to minimize the consequences of the release.

E. For each regulated substance, the off-site consequences of the worst-case or more likely significant accidental release scenarios shall be analyzed as follows:

1. the rate and quantity of substance lost to the air and the duration of the event;

2. the distances, in all directions, at which exposure to the substance or damage to off-site property or the environment from the release could occur using both worst-case meteorological conditions (i.e., F stability and 1.5 m/sec wind speed) and meteorological conditions most often occurring at the major stationary source. The owner or operator shall use the American Table of Distances (27 CFR 55.218, Alcohol, Tobacco Products, and Firearms; Commerce in Explosives; Storage; Table of Distances for Storage of Explosive Material) for explosives. For toxics and flammables the owner or operator may use lookup tables to be developed by EPA for this purpose, or the owner or operator also may use "Technical Guidance for Hazards Analysis - Emergency Planning for Extremely Hazardous Substances," EPA/FEMA/DOT, December 1987. As an alternative to either of these, the owner or operator may use a dense-gas model approved by the department;

3. the total population and the total sensitive population within these distances that could be exposed to the vapor cloud, pressure wave, or debris, depending on wind direction and meteorological conditions. The owner or operator may use U.S. Census Data to identify these populations, taking the number of children under age 18 and people over age 65 as a proxy for sensitive population;

4. a description of the environments within these distances, including consideration of sensitive ecosystems, migration routes, vulnerable natural areas, and critical habitats for threatened or endangered species. The owner or operator may use the National Oceanic and Atmospheric Administration document "Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments" (59 FR 14714, March 29, 1994), as guidance in considering what to describe in environments within these distances;

5. a general description of other major stationary sources, other industrial, commercial, military, and institutional facilities, or other types of facilities of which the owner or operator has reasonable knowledge within these distances that might become dangerous to the public in the event of a significant accidental release from the owner or operator's major stationary source; and

6. a general description of highways and roads, highway crossings, railways and rail yards, airports and air fields, and any other transportation facilities of which the owner or operator has reasonable knowledge that might be affected by a significant accidental release from the major stationary source.

F. The owner or operator shall prepare a five-year history, beginning five years before November 8, 1995, of significant accidental releases and releases with potential for off-site consequences for each regulated substance handled at the

major stationary source. The history shall list the release date and time, substance and quantity released, the duration of the release, the concentration of the substance released, and any off-site consequences such as deaths, injuries, hospitalizations, medical treatments, evacuations, sheltering-in-place, and major off-site environmental impacts such as soil, groundwater, or drinking water contamination, fish kills, and vegetation damage.

G. The hazard assessment shall be reviewed and updated at least once every five years. If changes in process, management, or any other relevant aspect of the major stationary source or its surroundings (e.g., new housing developments or improved emergency response services) might reasonably be expected to make the results of the hazard assessment inaccurate (i.e., if either the worst-case release scenario or the estimate of off-site effects might reasonably be expected to change), the owner or operator shall complete a new or revised hazard assessment within 60 days of such change.

H. The owner or operator shall maintain the following records documenting the hazard assessment and analysis of off-site consequences:

1. a description of the worst-case scenarios, assumptions used, analyses or worksheets used to derive the accident scenarios, and the rationale for selection of specific scenarios;

2. a description of the other more likely significant accidental release scenarios identified in Subsection B.2 of this Section, assumptions used, analyses or worksheets used to derive the accident scenarios, and the rationale for selection of specific scenarios; and

3. documentation for how the off-site consequences for each scenario were determined including:

a. estimated quantity of substance released, rate of release, and duration of the release;

b. meteorological data used for typical conditions at the major stationary source;

c. for toxic substances, the concentration used to determine the level of exposure and the data used for that concentration;

d. calculations for determination of the distances downwind to the acute toxicity concentration; and

e. data used for estimation of the populations exposed, environments, and affected industrial and transportation facilities identified.

I. A summary of the information required under Subsection H of this Section and a table showing the data for the five-year accident history under Subsection F of this Section shall be included in the Risk Management Plan (RMP) required under LAC 33:III.5939.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5919. Prevention Program - Process Hazard Analysis

A. The purpose of the process hazard analysis (hazard evaluation) is to examine, in a systematic, step-by-step way, the equipment, systems, and procedures for handling regulated substances and to identify the mishaps that could

occur, analyze the likelihood that mishaps will occur, evaluate the consequences of these mishaps, and analyze the likelihood that safety systems, mitigation systems, and emergency alarms will function properly to eliminate or reduce the consequences of a mishap. A thorough process hazard analysis is the foundation for the remaining elements of the prevention program.

B. The owner or operator shall perform an initial process hazard analysis on processes covered by this Chapter. The process hazard analysis shall be appropriate to the complexity of the process and shall identify, evaluate, and control the hazards involved in the process. The owner or operator shall determine and document the priority order for conducting process hazard analyses based on a rationale that includes such considerations as the extent of process hazards, off-site consequences, age of the process, and operating history of the process. The process hazard analysis shall be completed no later than November 8, 1998.

C. Process hazard analyses completed after November 8, 1990 that meet the requirements of this Section are acceptable as initial process hazard analyses. These process hazard analyses shall be updated and revalidated, based on their completion date, in accordance with Subsection H of this Section.

D. The owner or operator shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed:

1. what-if;
2. checklist;
3. what-if/checklist;
4. hazard and operability study (HAZOP);
5. failure mode and effects analysis (FMEA);
6. fault tree analysis; or
7. an appropriate equivalent methodology.

E. The process hazard analysis shall address the following:

1. the hazards of the process;
2. the identification of any previous incident that had a likely potential for significant off-site consequences;
3. engineering and administrative controls applicable to the hazards and their interrelationships, such as appropriate application of detection methodologies to provide early warning of releases. Acceptable detection methods might include process monitoring and control instrumentation with alarms and detection hardware such as hydrocarbon sensors;
4. consequences of failure of engineering and administrative controls;
5. major stationary source siting;
6. human factors; and
7. a qualitative evaluation of a range of possible safety and health effects of failure of the controls on public health and the environment.

F. The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

G. The owner or operator shall establish a system to

promptly address the team's findings and recommendations; ensure that the recommendations are resolved in a timely manner and that the resolution is documented; document what actions are to be taken; complete actions as soon as possible; develop a written schedule of when these actions are to be completed; and communicate the action to operating, maintenance, and other employees whose work assignments are in the process and who are affected by the recommendations or actions.

H. At least every five years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in Subsection F of this Section to ensure that the process hazard analysis is consistent with the current process.

I. The owner or operator shall retain process hazard analyses and updates or revalidations for each process covered by this Chapter, as well as the documented resolution of recommendations described in Subsection G of this Section, for the life of the process.

J. Based on the findings and recommendations of the process hazard analysis, the owner or operator shall also investigate, evaluate, and document a plan for, or rationale for not, installing (if not already in place) the following:

1. monitors, detectors, sensors, or alarms for early detection of accidental releases;
2. secondary containment or control devices such as, but not limited to, flares, scrubbers, quench, surge, or dump tanks, to capture releases; and
3. mitigation systems to reduce the downwind consequences of the release.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5931. Prevention Program - Management of Change

A. The purpose of a management of change program is to ensure that any alteration of equipment, procedures, substances, or processes is thoroughly analyzed to identify hazards, the consequences of failures, and impacts of the change on existing equipment, procedures, substances, and processes prior to implementation of the change.

B. For process equipment, devices, or controls, replacement is not a change if the design, materials of construction, and parameters for flow, pressure, and temperature satisfy the design specifications of the device replaced.

C. The owner or operator shall establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures and changes to major stationary sources that affect a covered process.

D. The procedures shall ensure that the following considerations are addressed prior to any change:

1. the technical basis for the proposed change;
2. impact of change on likelihood of a significant accidental release;
3. modifications to operating procedures;
4. necessary time period for the change; and
5. authorization requirements for the proposed change.

E. Employees involved in operating a process and maintenance and contract employees whose job tasks will be directly affected by a change in the process shall be informed of and trained in the change prior to the start-up of the process or affected part of the process.

F. If a change covered by this Section results in a change in the process safety information required by LAC 33:III.5921, such information shall be updated accordingly.

G. If a change covered by this Section results in a change in the operating procedures or practices required by LAC 33:III.5923, such procedures or practices shall be updated accordingly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5939. Risk Management Plan (RMP)

A. The owner or operator of a major stationary source covered by this Chapter shall submit a risk management plan (report) summarizing the key elements of its risk management program to the department and shall submit copies to the Louisiana Emergency Response Commission and the Local Emergency Planning Committee with jurisdiction for the area where the source is located. The owner or operator shall submit to the LEPC having jurisdiction selected portions of the risk management plan in printed and/or electronic form useful to the LEPC for purposes of emergency response. Each report submitted by the major stationary source shall address all regulated substances present at the major stationary source in quantities above the threshold quantity.

B. The report shall include a copy of the registration form with updated information to ensure that the registration information is accurate.

C. The report shall include, for each regulated substance, a summary of the hazard assessment and analysis of off-site consequences and accident history data required by LAC 33:III.5913.I.

D. The report shall include, for the major stationary source, a description of the major hazards (e.g., equipment failure, human error, natural phenomena, or other factors or a combination of such factors, which could lead to a significant accidental release) identified through the process hazard analyses, a description of the consequences of a failure to control for each identified major hazard, a summary of all actions taken or planned to address these hazards, and how significant accidental releases are prevented or mitigated or the consequences reduced by these actions. The purpose of the summary is to identify major hazards and provide an overview of the prevention program being implemented by the major stationary source to prevent significant accidental releases. For each action taken to address a hazard the report shall include the date on which the action was started (or is scheduled to start) and the actual or scheduled completion date. Where the same actions (e.g., training, certain controls, preventive maintenance programs, improved emergency response plan) address a number of hazards, the description may be organized by actions rather than hazards. If any requirement for the risk management program specified in this Section is not covered in the summary of actions taken to

address hazards, the report shall include a brief description of the major stationary source's implementation of the requirement.

E. The report shall include a summary of the major stationary source's emergency response plan. The summary shall include:

1. the procedures adopted to inform emergency response authorities and the public;
2. the name or position of the point of contact between the major stationary source and the public authorities;
3. the dates of drills and exercises completed and planned and the results of completed drills; and
4. a description of coordination with the local emergency planning committee.

F. The report shall include a description of the management system developed to implement and coordinate the elements of the hazard assessment, prevention program, and emergency response program at the major stationary source. The description shall define the person or position at the major stationary source that is responsible for the overall implementation and coordination of the risk management program requirements. Where regulated substances are present above their threshold quantities at several locations at the major stationary source or where responsibility for implementing individual requirements is delegated to separate groups at the major stationary source, an organization chart shall be included to describe the lines of responsibility.

G. The report shall include a certification by the owner or operator that, to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, the information submitted is true, accurate, and complete.

H. The report shall be reviewed and updated at least every five years and resubmitted to the department and copies shall be submitted to the Louisiana Emergency Response Commission and the LEPC. The owner or operator shall submit to the LEPC having jurisdiction selected portions of the updated risk management plan in printed and/or electronic form useful to the LEPC for purposes of emergency response. If a change such as the introduction of a new regulated substance or process occurs that requires a revised or updated hazard assessment or process hazard analysis, then the report shall be updated and resubmitted within six months of the introduction of the new process or substance.

I. The report shall be available to the public under section 114(c) of the federal Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5941. Recordkeeping Requirements

A. The owner or operator of a major stationary source covered by this Section shall develop and maintain at the major stationary source, for five years, records supporting the implementation of the risk management program and the development of the risk management plan.

B. For the process hazard analysis, safety audit, and accident investigation, the records required to be maintained under Subsection A of this Section shall include management's response to each recommendation that is

required to be made, addressed, and documented under LAC 33:III.5919.G, 5933.E, and 5935.F and G. For implemented recommendations and recommendations to be implemented, the documentation shall include the date (or scheduled date) for starting implementation and the date (or scheduled date) for completion of the implementation. For each recommendation not implemented, the documentation shall include an explanation of the decision.

C. For pre-start-up reviews and management of change, the documentation shall include the findings of the review and any additional steps (including a description of the steps and the reasons they were implemented) that were taken prior to implementation of the start-up or change.

D. The owner or operator shall maintain copies of all standard operating, maintenance, management of change, emergency response, and accident investigation procedures required under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5943. Audits

A. In addition to inspections for the purpose of regulatory development and enforcement of this Chapter, the department shall periodically audit RMPs registered under LAC 33:III.5939 in order to review the adequacy of such RMPs and require revisions of RMPs when necessary to ensure compliance with LAC 33:III.5939.

B. Major stationary sources shall be selected for audits based on any of the following criteria:

1. accident history of the major stationary source;
2. accident history of other major stationary sources in the same industry;
3. quantity of regulated substances present at the major stationary source;
4. location of the major stationary source and its proximity to the public and sensitive environments;
5. the presence of specific regulated substances;
6. the hazards identified in the RMP; or
7. a plan providing for neutral, random oversight.

C. The department shall have access to the major stationary source, supporting documentation, and any area where an accidental release could occur.

D. Based on the audit, the department may issue an owner or operator of a major stationary source a written preliminary determination of necessary revisions to the source's RMP in order to ensure that the RMP meets the criteria of LAC 33:III.5939 and reflects the purposes of this Chapter. This preliminary determination shall include an explanation for the basis for the revisions, reflecting industry standards and guidelines (such as AIChE (American Institute of Chemical Engineers)/CCPS (Center for Chemical Process Safety) guidelines and ASME (American Society of Mechanical Engineers) and API (American Petroleum Institute) standards) to the extent that such standards and guidelines are applicable, and shall include a timetable for their implementation.

E. Written Response to a Preliminary Determination

1. The owner or operator shall respond in writing to a preliminary determination made in accordance with

Subsection D of this Section. The response shall state that the owner or operator shall implement the revisions contained in the preliminary determination in accordance with the timetable included in the preliminary determination or shall state that the owner rejects the revisions in whole or in part. For each rejected revision the owner or operator shall explain the basis for rejecting such revision. Such explanation may include substitute revisions.

2. The written response under Subsection E.1 of this Section shall be received by the department within 90 days of the issuance of the preliminary determination or a shorter period of time as the department specifies in the preliminary determination as necessary to protect human health and the environment. Prior to the written response being due and upon written request from the owner or operator, the department may provide in writing additional time for the response to be received.

F. After providing the owner or operator an opportunity to respond under Subsection E of this Section, the department may issue the owner or operator a written final determination of necessary revisions to the source's RMP. The final determination may adopt or modify the revisions contained in the preliminary determination under Subsection D of this Section or may adopt the substitute revisions provided in the response under Subsection E of this Section. A final determination that adopts a revision rejected by the owner or operator shall include an explanation of the basis for the revision. A final determination that fails to adopt a substitute revision provided under Subsection E of this Section shall include an explanation of the basis for finding such substitute revision unreasonable.

G. Thirty days after the issuance of a final determination under Subsection F of this Section, the owner or operator shall be in violation of LAC 33:III.5911, 5939.A, and this Section unless the owner or operator revises the RMP prepared under LAC 33:III.5939 as required by the final determination, submits copies of the revised RMP to the entities identified in LAC 33:III.5939.A, and registers the revised plan as provided in LAC 33:III.5911.B and C.

H. The public shall have access to the preliminary determinations, responses, and final determinations under this Section.

I. Nothing in this Section shall preclude, limit, or interfere in any way with the authority of EPA or the state to exercise its enforcement, investigatory, and information gathering authorities concerning 40 CFR part 68 under the federal Clean Air Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

For more information concerning AQ126E, you may contact DEQ's Investigations and Regulation Development Division at (504) 765-0399.

Gus Von Bodungen
Assistant Secretary

9607#041

DECLARATION OF EMERGENCY

Department of Health and Hospitals Office of Public Health

Sanitary Code—Commercial Seafood Inspection (Chapter XXII and XXIII)

In accordance with the Administrative Procedures Act, R.S. 49:950 et. seq., the secretary of the Department of Health and Hospitals is amending and adopting the following rules in order to recognize new and emerging technologies that have been developed in an effort to make raw molluscan shellfish consumption safe for certain high risk consumers. When adopted, eating establishments and retail markets serving raw shellfish that have undergone an approved treatment process shall be exempt from displaying a consumer information advisory.

The effective date of these rules is June 27, 1996 and they shall remain in effect for 120 days or until these rules take effect through the normal promulgation process.

Sanitary Code

Chapter XXII. Retail Food Establishments: Markets

22:018-4 EXEMPTION: Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to nondetectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify in writing to the state health officer, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the state health officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 60630
New Orleans, LA 70160

Chapter XXIII. Eating and Drinking Establishments

23:006-6 EXEMPTION: Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to nondetectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify in writing to the state health officer, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the state health officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 60630
New Orleans, LA 70160

Chapter XXIII-A. Temporary Food Service

23A:005-6 EXEMPTION: Establishments that exclusively serve raw molluscan shellfish that have been subjected to a process recognized by the state health officer as being effective in reducing the bacteria *Vibrio vulnificus* to nondetectable levels may apply for an exemption from the mandatory consumer information notification requirement. Establishments interested in obtaining an exemption shall certify in writing to the state health office, that it shall use exclusively for raw consumption only molluscan shellfish that have been subjected to the approved process. Upon receipt of that communication, the state health officer shall confirm the establishment as being exempt from the requirement of displaying the consumer information message. The establishment's certification must be sent to the state health officer at the following address:

Louisiana Office of Public Health
P.O. Box 60630
New Orleans, LA 70160

Bobby P. Jindal
Secretary

9607#015

DECLARATION OF EMERGENCY

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

Case Management Services for the Mentally Retarded/Developmentally Disabled—Program Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has provided coverage and reimbursement for case management services under the State Plan and under the Home and Community Based Waiver Services Program to the Mentally Retarded/Developmentally Disabled. The bureau has now determined that it is necessary to suspend coverage of case management services for non-waiver Mentally Retarded/Developmentally Disabled recipients under the State Plan due to insufficient funds. The case management services

for the Mentally Retarded/Developmentally Disabled under the Home and Community Based Waiver Services Program are retained. The following emergency rule has been adopted to suspend case management services for the Mentally Retarded/Developmentally Disabled population to those Medicaid recipients under the State Plan who are not participants in the Home and Community Based Waiver Services Program. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$2,603,664 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 1, 1996 and thereafter the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing suspends coverage and reimbursement of optional targeted case management services for non-waiver Mentally Retarded/Developmentally Disabled recipients under the State Plan. The case management services for the Mentally Retarded/Developmentally Disabled population under the Home and Community Based Waiver Services Program are retained.

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.

Bobby P. Jindal
Secretary

9607#002

DECLARATION OF EMERGENCY

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

Case Management Services for Optional Targeted Population Groups and Waiver Programs

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

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

1. developmentally delayed infants and toddlers (termed infants and toddlers with special needs under this emergency rule);
2. pregnant women in need of extra perinatal care (termed high-risk pregnant women under this emergency rule) (limited to the metropolitan New Orleans area);
3. HIV disabled individuals (termed persons infected with HIV under this emergency rule);

4. participants in Home- and Community-Based Services Program waivers which include case management as a service; and

5. ventilator-assisted children. The bureau has adopted rules governing case management services as the needs of the population groups for these services became apparent and in accordance with available funding.

Previously these services have been implemented and governed under specific program regulations. The department seeks to enhance all these services to the optimal level while streamlining their administration and establishes enhanced regulations governing consumer eligibility, provider enrollment, provider standards for participation and payment, and general provisions. The department adopted emergency rules to ensure uniform standards for the quality of the services delivered to these persons with special physical and/or health needs and conditions effective July 22, 1994 and August 13, 1994 (*Louisiana Register*, Volume 20, Numbers 6 and 7). Subsequent emergency rules continued this initiative in force as published in the *Louisiana Register* (November 20, 1994, Volume 20, Number 11; April 20, 1995, Volume 21, Number 4; August 20, 1995, Volume 21, Number 8; November 20, 1995, Volume 21, Number 11; and March 20, 1996, Volume 22, Number 3). The following emergency rule is being adopted to continue these provisions in force in order to assure that the fragile and vulnerable population groups identified above receive case management services essential to their obtaining needed medical services thereby preventing imminent peril to the health, safety, and welfare. An emergency rule was adopted in June 1996 (*Louisiana Register*, Volume 22, Number 7) which established the reimbursement methodology and regulations governing the payment for these services. The following regulations are in addition to the provision of the June emergency rule.

Emergency Rule

Effective July 7, 1996 the Bureau of Health Services Financing adopts the regulations governing case management services including consumer eligibility requirements, provider enrollment, provider standards for participation and payment, and general provisions. This emergency rule applies to case management services provided either to targeted population groups or under a waiver program(s) in which case management services are included. This emergency rule governs case management services for the following specific population groups:

1. infants and toddlers with special needs;
2. high-risk pregnant women;
3. persons infected with HIV;
4. persons in waiver program(s) in which case management services are included.

Services for ventilator-assisted children are terminated as a specific targeted group but these children may be eligible under the other target groups listed above. All case management providers must follow the policies and procedures included in this emergency rule as well as in the Department of Health and Hospitals *Case Management Provider Manual*. Under this rule the term *case management*

has the same meaning as the term *family service coordination*. Case management services must be delivered in accordance with all applicable federal and state laws and regulations.

I. Standards of Participation

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

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

Each office site of a case management agency must be enrolled separately. Approval by DHH entitles the agency to provide services in the parishes of that DHH region only. This requirement is applicable to both new providers and existing providers already enrolled. When an agency wishes to provide case management services in a parish in another region and that parish is not contiguous to the parish in which an enrolled office site is located, the agency must establish an office in the other region, submit a separate enrollment packet, and receive DHH approval to provide services in that DHH region regardless of the number of case managers providing services in the new region. When there are less than three case managers providing services in a parish in another region and that parish is contiguous to the parish in which an enrolled office site is located, the agency is not required to establish an office in the other region.

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

All applicant case management agencies must meet the requirements listed in 1-16 below to participate as a case management provider in the Medicaid Program, regardless of the targeted or waiver group served:

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

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

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

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

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

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

3. demonstrate administrative capacity to provide all core elements of case management and insure effective case management services to the target population in accordance with licensing and DHH requirements by DHH review of the following:

a. current detailed budget for case management;

b. report of annual outside audit by a CPA performed in accordance with generally accepted accounting principles;

c. cost report by September 30 of each year following 12 months of operation;

d. provider policies and procedures;

e. functional organization chart depicting lines of authority; and

f. program philosophy, goals, services provided, and eligibility criteria that define the target population or waiver group to be served;

4. assure that all case manager staff is employed by the agency in accordance with Internal Revenue Service (IRS) regulations (including submission of a W-2 form on each case manager). Contracting case manager staff is prohibited. Contracting of supervisors must comply with IRS regulations. Each case manager must be employed 20 hours per week;

5. assure that all new staff satisfactorily complete an orientation and training program in the first 90 days of employment and possess adequate case management abilities, skills and knowledge before assuming sole responsibility for their caseload and each case manager and supervisor satisfactorily complete case management related training on an annual basis to meet at least minimum training requirements described below. The provision and/or arranging of such training is the responsibility of the provider;

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

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

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

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

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

11. if currently enrolled as a Medicaid case management provider, assure that the agency and case managers will not provide case management and Medicaid reimbursed direct services to the same consumer(s);

12. have financial resources and a financial management system capable of:

a. adequately funding required qualified staff and services;

b. providing documentation of services and costs;

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

d. submitting reports in the manner specified by Medicaid;

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

14. maintain a written policy for transition and closure;

15. with the consumer's permission, agree to maintain regular contact with, share relevant information and coordinate medical services with the consumer's primary care or attending physician or clinic;

16. fully comply with the *Code of Governmental Ethics*.

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

17. demonstrate the capacity to participate and agree to participate in the Case Management Information System (CAMIS) and provide up-to-date data to the Regional Office on a monthly basis via electronic mail applicable to infants and toddlers with special needs. CAMIS and electronic mail software will be provided without charge to the provider;

18. have demonstrated successful experience with delivery and/or coordination of services for pregnant women; have a working relationship with a local obstetrical provider/ acute care hospital providing deliveries for 24-hour medical consultation; have a multidisciplinary team consisting, at a minimum, of: a physician, primary nurse associate or CNM; registered nurse; social worker; and nutritionist; all team members must meet DHH licensure and perinatal experience requirements (applicable to high-risk pregnant women only);

19. satisfactorily complete a one-day training provided by the Delta Region AIDs Education and Training Center (applicable to HIV infected).

An enrolled case management provider must re-enroll requesting a separate Medicaid provider number and is subject to the above-described enrollment requirements and procedures in order to provide case management services to an additional target population.

Applicants will be subject to review by DHH to determine ability and capacity to serve the target population and a site visit to verify compliance with all provider enrollment requirements prior to a decision by the Medicaid Program on

enrollment as a case management provider or at any time subsequent to enrollment. Enrolled case management providers will be subject to review by the DHH and the U.S. Department of Health and Human Services to verify compliance with all provider enrollment requirements at any time subsequent to enrollment.

If the applicant agency is determined to be eligible for enrollment, the agency will be notified in writing by the Medicaid Program of the effective date of enrollment and the unique Medicaid case management provider number for each office site and targeted or waiver group. If the department determines that the applicant case management agency does not meet the general or specific enrollment requirements listed above, the applicant agency will be notified in writing of the deficiencies needing correction. The applicant agency must submit appropriate documentation of corrective action taken. If the applicant agency fails to submit the required documentation of corrective action taken within 30 days of the notice, the application will be rejected. If the case management agency does not meet all of the requirements above, the applicant agency will be ineligible to provide case management services to any targeted or waiver group.

II. Standards of Payment

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

A. Staff Coverage. All case managers must be employed by the case management agency a minimum of 20 hours per week and work at least 50 percent of the time during normal business hours (8 a.m. to 5 p.m., Monday through Friday). Contracting of case manager staff is prohibited. Case management supervisors must be employed a minimum of eight hours per week for each full time case manager (four hours a week for each part-time case manager) they supervise and maintain on-site office hours at least 50 percent of the time. A supervisor must be continuously available to case managers by telephone or beeper at all other times when not on site when case management services are provided. The provider agency must ensure that case management services are available 24 hours a day, seven days a week.

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

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

a. a bachelor's degree in a human-service-related field such as psychology, education, rehabilitation counseling, or counseling from an accredited institution; and one year of

paid experience in a human-service-related field providing direct consumer services or case management in the human-service-related field; or

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

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

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

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

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

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

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

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

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

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

a. a master's degree in psychology, nursing, counseling, rehabilitation counseling, education (with special education certification), occupational therapy, speech therapy or physical therapy from an accredited institution; AND two years of paid post-bachelor's degree experience in a human service-related field providing direct consumer services or case management in the human service-related field; one year of this experience must be in providing direct services to the target population to be served; OR

b. a bachelor's or master's degree in social work from

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

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

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

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

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

High-Risk Pregnant Women. Each Medicaid-enrolled provider must ensure that all case management supervisory staff for high-risk pregnant women meet the following qualifications:

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

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

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

d. a registered dietician; and three years of paid postbachelor's degree experience in a human-service-related

field providing direct consumer services or case management in the human-service-related field; two years of this experience must be in providing direct services to pregnant women.

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

a. **Knowledge:**

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

b. **Skills:**

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

c. **Abilities:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

individual staff must include the following:

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

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

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

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

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

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

D. Caseload Size Standards. Each full-time case manager is subject to a maximum caseload of consumers as indicated below:

	Case Weight
Infants and toddlers with special needs	351.14
High-risk pregnant women	60.666
HIV infected	45.888
Fragile elderly	45.888

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

E. Consumer Eligibility Requirements for Targeted Populations. Case management providers must ensure that consumers of Medicaid funded targeted case management services are Medicaid eligible and meet the additional eligibility requirements specific to the targeted or waiver population group. The eligibility requirements for each targeted and waiver group are listed below. With respect to

infants and toddlers with special needs, this determination is made through the Multidisciplinary Evaluation (MDE) process and is not the responsibility of the case management/family service coordination agency. Also, the service plan for case management services provided to mentally retarded/developmentally disabled individuals and infants and toddlers with special needs is subject to prior authorization by the Medicaid agency or its designee. Providers are required to participate in provider training and technical assistance as required by the Medicaid agency or its designee.

1. Infants and Toddlers with Special Needs

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

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

(1) cognitive development;

(2) physical development, including vision and hearing; eligibility must be based on a documented diagnosis made by a licensed medical doctor (vision); or a licensed medical doctor or licensed audiologist (hearing);

(3) communication development;

(4) social or emotional development;

(5) adaptive development.

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

2. High-Risk Pregnant Women

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

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

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

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

3. HIV Infected

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

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

c. The pediatric consumer must display symptoms of illness related to HIV infection. All consumers must require services from multiple health, social, informal and formal

service providers and be unable to access the necessary services.

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

F. Description of Case Management Services/Provider Responsibilities

The definition of *Case Management* adopted by the department is "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." Targeted and waiver case management services consist of intake, assessment, service planning, linkage/service coordination, monitoring/follow-up, reassessment, and transition/closure. The department utilizes a broker model of case management in which consumers are referred to other agencies for specific services they need. These services are determined by professional assessment of the consumer's needs and provided according to a comprehensive individualized written service plan. All case management services must be provided by qualified staff as defined in Section A above. The provider must ensure that there is no duplication of payment, that there is only one case manager for each eligible consumer and that the consumer is not receiving other targeted case management services from any other provider.

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

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

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

b. determine if the consumer is currently Medicaid eligible;

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

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

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

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

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

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

f. obtain signed release form(s) from the consumer/guardian.

Intake activities performed solely to determine eligibility and need for targeted case management are not billable to Medicaid (unless they are performed as part of the case management assessment process and the consumer meets the eligibility requirements for the target or waiver population).

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

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

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

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

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

Intake for High-Risk Pregnant Women. Intake must include a standardized medical risk assessment described in Section E3 above.

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

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

2. **Case Management Assessment.** *Assessment* is defined as the process of gathering and integrating formal/professional and informal information concerning a consumer's goals, strengths, and needs to assist in the development of a comprehensive, individualized service plan.

The purpose of assessment is to establish a service plan and contract between the case manager and consumer. The following areas must be addressed in the assessment when relevant: identifying information; medical/physical; psychosocial/behavioral; developmental/intellectual; socialization/recreational; financial; educational/vocational; family functioning; personal and community support systems; housing/physical environment; and status of other functional areas or domains.

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

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

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

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

Assessment for Infants and Toddlers with Special Needs. The child search coordinator is responsible for ensuring all the components of the assessment/multidisciplinary evaluation (MDE) are fulfilled within the required timeliness. In addition, the child search coordinator must coordinate with the family service coordinator to ensure the development of the initial Individualized Family Service Plan within the

required 45-day time lines. The case manager/family service coordinator is responsible for assisting the family through the multidisciplinary evaluation process including the following:

- a. informing the family of the steps involved in the MDE process, explaining their rights and procedural safeguards and securing their participation;
- b. reviewing relevant medical information and prior evaluations;
- c. coordinating the performance of identified or necessary evaluations and KIDMED screenings and immunizations, and an examination by a licensed physician to ensure timely completion of the MDE and IFSP;
- d. identifying or coordinating the identification of the family's concerns, priorities and resources;

The MDE must include the following:

- a. a review of pertinent records related to the child's current health status and medical history;
- b. results of a KIDMED screening or documented referral for KIDMED screening;
- c. an evaluation of the child's level of functioning in each of the following developmental areas: cognitive development, physical development, including vision and hearing (by a licensed physician or hearing by a licensed audiologist); communication development; social or emotional development; and adaptive development;
- d. an assessment of the child's strengths and needs and the identification of appropriate early intervention services to meet those needs; and
- e. with family consent, the family's identification of their concerns, priorities and resources related to enhancing the development of their child;
- f. be signed and dated by multidisciplinary team participants.

Assessment for High-Risk Pregnant Women. Assessment of pregnant women is a multidisciplinary evaluation of the high-risk patient to identify factors that may adversely affect health status. Professionals from nursing, nutrition and social work disciplines working as a team must each evaluate the consumer and family needs through interactions and interviews. Each professional assessment must reflect the identified areas for counseling, intervention and follow up services. The nursing, nutritional, and psychosocial assessments must be documented on standardized forms approved by the department. Assessments must be completed within 14 calendar days after the risk assessment is completed or receipt of the referral. There may be extenuating circumstances with certain patients that may hinder compliance with this time frame for assessment.

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

- a. coordinating the performance of identified or necessary evaluations to ensure timely completion in preparation for the multidisciplinary team staffing;
- b. identifying or coordinating the identification of the consumer's concerns, priorities and resources.

A home assessment must be completed by the case manager as part of the initial assessment. If a home visit is refused by the consumer/guardian or there are genuine

concerns regarding safety, an alternative setting in the consumer's community may be chosen jointly with the consumer and documented in the case record.

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

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

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

- a. statement of prioritized long-range goals (problems or needs) which have been identified in the assessment;
- b. one or more short-term objectives or expected outcomes linked to each goal that is to be addressed in order of priority;
- c. specification of action steps, services or interventions planned, and payment mechanism, if applicable;
- d. assignment of individual responsibility for goal accomplishment; and
- e. time frames for completion or review.

The service plan must document frequency and/or intensity of contacts between the consumer and case manager, service providers and others, the persons to be contacted and whether the visits must be to the consumer's place of residence or to another location, such as a service delivery site. Each service plan must be written and kept in the consumer's record. The assessment and service plan must be completed prior to providing ongoing case management services.

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

Service Planning for Infants and Toddlers with Special Needs. The family service coordinator's responsibilities in the Individual Family Service Plan (IFSP) must include all of the following:

- a. convening a meeting to develop the IFSP within 45 calendar days of referral;
- b. attending the IFSP meeting;

c. ensuring that the IFSP meeting is conducted in settings and at times that are convenient to families; in the native language of the family or other mode of communication used by documentation to the regional office within prescribed time lines in accordance with Office of Mental Health procedures.

Service Planning for Frail Elderly. Service planning procedures for waiver services are described in the appropriate Waiver Provider Manual.

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

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

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

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

The case manager must communicate regularly by telephone, in writing and in face-to-face meetings and home visits with the consumer/guardian, professionals and service

providers involved in the implementation of the service plan. The nature of these follow-up contacts (i.e. telephone, home visit) and the individuals contacted is determined by the status and needs of the consumer, as identified in the service plan and determined by the case manager.

Through this activity, the case manager must determine whether or not the service plan is effective in meeting the consumer's needs and identify when changes in the consumer's status occur, necessitating a revision in the service plan. Reassessment is required when a major change in status of the consumer/guardian occurs.

Monitoring of services provided includes the following:

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

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

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

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

Follow-Up/Monitoring for Seriously Mentally Ill. The case manager must have at least weekly face-to-face or telephone contact with the consumer/guardian.

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

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

the case manager must revise the plan and initial and date the change. More frequent reassessments may be required, depending upon the consumer's situation.

At least every six months, a complete review of the service plan must be done to assure that goals and services are appropriate to the consumer's needs identified in the assessment/reassessment process. A home-based reassessment must be done on at least an annual basis unless this is not the consumer's preference or there are genuine concerns regarding safety. If the reassessment cannot be conducted in the consumer's home, an alternative setting in the consumer's community must be chosen jointly with the consumer and documented in the case record.

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

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

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

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

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

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

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

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

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

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

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

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

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

Procedures for Changing Family Service Coordination Providers-Infants and Toddlers with Special Needs. If a family chooses to change family service coordination agencies or a change is necessary for any reason, the following procedures will be followed:

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

III. General Provisions

A. Documentation. The provider must keep sufficient records to document compliance with licensing and Medicaid case management requirements for the target population served and provision of case management services. Separate

case management records must be maintained on each consumer which fully document services for which Medicaid payments have been made. The provider must maintain sufficient documentation to enable the Medicaid Program to verify that each charge is due and proper prior to payment. The provider must make available all records which the Medicaid Program finds necessary to determine compliance with any federal or state law, rule, or regulation promulgated by the Medicaid Program, DHH or DHHS or other applicable state agency.

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

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

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

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

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

Progress Notes. Progress notes are the means of summarizing billable activities, observations and progress

toward meeting service goals in the case management record. Progress notes must:

1. be clear as to who was contacted and what case management activity took place for each recorded time of case management. It must be clear why that time period was billed;
2. record activities and actions taken, by whom, and progress made; and indicate how goals in the service plan are progressing;
3. document delivery of each service identified on the service plan;
4. record any changes in the consumer's medical condition, behavior or home situation which may indicate a need for a reassessment and service plan change;
5. be legible, as well as legibly signed, including functional title, and fully dated; and
6. be complete, entered in the record preferably weekly but at least monthly and signed by the primary case manager.

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

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

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

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

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

B. Reimbursement

1. **General Requirements.** As with all Medicaid services, payment for targeted or waiver case management services is dictated by the nature of the activity and the purpose for which the activity is performed. All case management

services billed must be provided by qualified case managers and meet the definition of *Case Management*, "services provided by qualified staff to the targeted or waiver population to assist them in gaining access to the full range of needed services including medical, social, educational, and other support services." This definition encompasses assisting eligible consumers in gaining access to needed services including:

- a. identifying services needed;
- b. linking consumer with the most appropriate providers of services; and
- c. monitoring to ensure needed services are received.

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

2. Reimbursement Requirements for Infants and Toddlers with Special Needs

- a. Candidates for case management services must be Medicaid eligible.
- b. Medicaid eligibles must be certified as a member of the targeted populations by the Medicaid agency or its designee.

c. The case management service plan is subject to prior authorization by the Medicaid agency or its designee.

d. Providers of case management services are required to participate in provider training and technical assistance as required by the Medicaid agency or its designee.

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

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

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

1. outreach, case finding or marketing;
2. counseling or any form of therapeutic intervention;

3. developing general community or placement resources or a community resource directory;
4. legislative or general advocacy;
5. professional evaluations;
6. training;
7. providing transportation;
8. telephone calls to a busy number, leaving messages, faxing or mailing information;
9. travel to a consumer's home for a home visit, and the consumer is not at home so that the visit cannot be held but a note is left;

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

11. in-service training, supervision;

12. discharge planning;

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

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

14. general administrative, supervisory or clerical activities;

15. record keeping;

16. general interagency coordination;

17. program planning;

18. Medicaid billing or communications with Medicaid Program;

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

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

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

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

23. accompanying another case manager for safety reasons.

Bobby P. Jindal
Secretary

9607#045

DECLARATION OF EMERGENCY

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

Community Care Program—Physician Management Fee

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance

Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement to primary care physicians who are enrolled as physician managers in the Community Care Waiver Program to insure that the recipient under their care receive the appropriate hospital and specialty care as well as primary care. These physicians are reimbursed a \$5 management fee per month per Medicaid recipient enrolled in the Community Care Program. The bureau has now determined it is necessary to reduce this physician management fee. The following emergency rule has been adopted to reduce the physician management fee under the Community Care Waiver Program from \$5 to \$2 per recipient. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$1,632,645.00 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the physician management fee in the Community Care Waiver Program to \$2 per enrolled recipient per month.

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.

Bobby P. Jindal
Secretary

9607#003

DECLARATION OF EMERGENCY

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

Durable Medical Equipment Program—Reimbursement for
Customized Wheelchairs

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted

the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses Durable Medical Equipment (DME) Providers 80 percent of the Medicare Fee Schedule amounts for wheelchairs with standardized construction and wheelchair accessories all of which have specific HCPC procedure codes and are included in the Medicare Fee Schedule. The department provides reimbursement for wheelchairs with customized construction, HCPC procedure code E1220, and which are not included in the Medicare Fee Schedule based on the lowest bid received from the DME providers who participate in a seating evaluation conducted by a rehabilitation therapist and physician. The bureau has now determined it is necessary to revise its methodology of reimbursement for customized wheelchairs. Therefore, the following emergency rule has been adopted to change the methodology for reimbursing providers of customized wheelchairs from a bidding system to a formula pricing system based on the manufacturer's suggested retail price minus 18 percent. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$2,078,361 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses providers of customized wheelchairs by utilizing the following formula pricing system. Payment for customized wheelchairs shall be made based on the manufacturer's suggested retail price minus 18 percent.

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.

Bobby P. Jindal
Secretary

9607#004

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment
(EPSDT) Program—Follow-up Screening Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses KIDMED providers a flat fee for medical screening services covered by the Early Periodic Screening, Diagnostic Testing and Treatment (EPSDT) Program provided to Medicaid recipients under 21 years of age. The bureau has now determined that it is necessary to reduce fees for the follow-up medical screening services. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will reduce expenditures by approximately \$612,412 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July, 1, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement fees for providers of medical screening services for the following codes included under the Early Periodic Screening Diagnostic and Treatment program:

PROCEDURE CODES -	OLD RATE	NEW RATE
X0180 Consult EPSDT-New Dx by Nurse	\$15.71	\$13.71
X0181 Consult EPSDT-New Dx by Nutrition	\$15.71	\$13.71
X0182 Consult EPSDT-New Dx by Social Worker	\$15.71	\$13.71
X0187 Consult EPSDT-Scrn Dx-by Nurse	\$15.71	\$13.71
X0188 Consult EPSDT-Scrn Dx-by Nutrition	\$15.71	\$13.71
X0189 Consult EPSDT-Scrn Dx-by Social Worker	\$15.71	\$13.71

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.

Bobby P. Jindal
Secretary

9607#008

DECLARATION OF EMERGENCY

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

Early Periodic Screening Diagnosis and Treatment
(EPSDT) Health Services—Rehabilitation

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses a flat fee for rehabilitation services included in an Individual Education Plan or Individual/Family Service Plan and provided by the school board or an early intervention centers under the Early Periodic Screening, Diagnostic and Treatment (EPSDT) Health Services Program. These rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services. These services were not reduced during state fiscal year 1995-1996 when similar services were reduced for other providers. The bureau has now determined that it is necessary to reduce the fees for these rehabilitation services. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will reduce expenditures by approximately \$486,485 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 10, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement fees by 10 percent for rehabilitation services included in an Individual Education Plan or Individual/Family Service Plan and provided by school boards and early intervention centers under the Early Periodic Screening, Diagnostic and Treatment (EPSDT) Health Services Program for Medicaid recipients under 21 years of age. These rehabilitation services include evaluation and treatment services for speech, occupational, physical, and psychological therapies as well as audiological services.

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.

Bobby P. Jindal
Secretary

9607#026

DECLARATION OF EMERGENCY

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

Federally Qualified Health Center—Reimbursement
Methodology

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has reimbursed federally qualified health centers under a cost reimbursement methodology as published in the *Louisiana Register*, Volume 16, Number 8 of August 20, 1990. The bureau has now determined it is necessary to limit reimbursements to federally qualified health centers by applying the Medicare Payment Limit to core services. A core service is defined as a face-to-face encounter with a physician, physician assistant, nurse practitioner, clinical psychologist or clinical social worker. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$1,034,077 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of services July 1, 1996 and after, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will limit reimbursements to federally qualified health centers by applying the Medicare Payment Limit to core services. A core service is defined as a face-to-face encounter with a physician, physician assistant, nurse practitioner, clinical psychologist or clinical social worker.

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.

Bobby P. Jindal
Secretary

9607#006

DECLARATION OF EMERGENCY

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

Home Health Program—Home Health Services Definitions

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage and reimbursement for the delivery of home health services to Medicaid recipients in their homes under the Home Health Program. The department has now determined that it is necessary to define the provision of home health services under the Medicaid Program. Home health services are temporary or intermittent skilled nursing, nurse aide or physical therapy services designed to assist homebound patients with physical limitations caused by acute illness and/or surgery. Reimbursement for home health services is not provided when the principal diagnosis is a psychiatric diagnosis. Psychiatric services are available to Medicaid recipients through Mental Health services under the State Plan. Therefore, the following emergency rule has been adopted to define the provision of home health services under the Medicaid Program. This action will prevent duplication of services and ensure uniform authorization procedures for mental health services when appropriate. In addition, it is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation will reduce expenditures by approximately \$1,022,658 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service August 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing defines the

provision of home health services as those temporary or intermittent skilled nursing, nurse aide or physical therapy services designed to assist homebound patients with physical limitations caused by acute illness and/or surgery. Reimbursement for home health services is not provided when the principal diagnosis is a psychiatric diagnosis.

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.

Bobby P. Jindal
Secretary

9607#042

DECLARATION OF EMERGENCY

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

Hospital Program—Outpatient Laboratory Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing differentiates in the reimbursement rate for outpatient hospital laboratory services and laboratory services performed in a nonhospital setting. The bureau adopted an emergency rule to reduce the reimbursement for laboratory services except for those services performed in an outpatient hospital setting effective July 7, 1995 (*Louisiana Register*, Volume 21, Number 7). The bureau has now determined it is necessary to reduce the reimbursement for outpatient hospital laboratory services subject to the Medicare fee schedule in order to achieve a uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule regardless of the setting in which the services are performed. Therefore, the following emergency rule has been adopted to reduce the payment for outpatient hospital laboratory services subject to the Medicare fee schedule. This action is necessary to avoid a budget deficit in the medical assistance programs. It is

anticipated that implementation of this emergency rule will save approximately \$681,505.93 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service August 1, 1996 and thereafter the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will reduce the reimbursement rate for outpatient hospital laboratory services subject to the Medicare fee schedule to the same reimbursement rate for laboratory services provided in a nonhospital setting. This action will achieve a uniform reimbursement methodology for all laboratory services subject to the Medicare fee schedule regardless of the setting in which the services are performed.

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.

Bobby P. Jindal
Secretary

9607#044

DECLARATION OF EMERGENCY

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

Hospital Program—Outpatient Rehabilitation Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has reimbursed hospitals for outpatient speech, occupational and physical therapies through a cost settlement process. The bureau has now determined it is necessary to revise this payment procedure by establishing a flat fee for services in accordance with the reimbursement methodology for rehabilitation clinics. Therefore, the following emergency rule has been adopted to reimburse hospitals a flat fee for service for outpatient rehabilitation services which will no longer be settled in the cost reports. Hospitals are required to

bill for these services using the same state-assigned HCPCS procedure codes used by rehabilitation clinics in addition to the hospital revenue code. These hospital revenue codes include physical therapy services (HR420-429); occupational therapy services (HR430-439); and speech therapy services (HR440-449). This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$4,772,000 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service August 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reimburses hospitals for outpatient rehabilitation services including speech, occupational and physical therapies at a flat fee for service based on payments made to rehabilitation clinics for these services. These services shall no longer be settled in the cost report. Hospitals are required to bill for these services using the same state-assigned HCPCS procedure codes payable to rehabilitation clinics, in addition to the hospital revenue code.

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.

Bobby P. Jindal
Secretary

9607#043

DECLARATION OF EMERGENCY

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

Hospital Prospective Reimbursement Methodology

The Department of Health and Hospitals, Office of Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriations Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reduction, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for certain specialty hospital services including rehabilitation hospitals and long-term hospitals

under specialty hospital peer groups as published in the *Louisiana Register*, Volume 19, Number 11 of November 20, 1993. The bureau has now determined it is necessary to prospectively reimburse rehabilitation hospitals and long-term hospitals within the peer groups established for general medical and surgical acute care hospitals according to the number of certified, staffed, non-psychiatric beds, but will continue to apply existing rehabilitation and long-term hospital utilization review criteria for determination of length of stay and reimburse rehabilitation hospitals and long-term hospitals at the peer group per diem for psychiatric patient days through December 31, 1996. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$9,466,396 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 1, 1996 and thereafter, The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will prospectively reimburse rehabilitation hospitals and long-term hospitals within the peer groups established for general medical and surgical acute care hospitals according to the number of certified, staffed, non-psychiatric beds, but will continue to apply existing rehabilitation and long term hospital utilization review criteria for determination of length of stay and will reimburse rehabilitation hospitals and long-term hospitals at the general medical and surgical acute care hospital peer group per diem for psychiatric patient days through December 31, 1996. Effective for dates of service on or after January 1, 1997, The Department of Health and Hospitals, Bureau of Health Services Financing will reimburse rehabilitation hospitals and long-term hospitals at the psychiatric prospective payment rate for psychiatric patient days.

Interested persons may submit comments to: Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this emergency rule.

Bobby P. Jindal
Secretary

9607#005

DECLARATION OF EMERGENCY

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

Medicaid Case Management Services for the Seriously Mentally Ill—Termination of Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97

General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Bureau of Health Services Financing has provided coverage and reimbursement under the Title XIX State Plan for optional targeted case management services for the seriously mentally ill. The bureau has now determined it is necessary to terminate this service for the seriously mentally ill due to insufficient funds. The following emergency rule has been adopted to terminate optional targeted case management services for the seriously mentally ill under the Medicaid Program.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$5,194,116 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 1, 1996 and thereafter the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing terminates coverage and reimbursement of optional targeted case management services for the seriously mentally ill under the Medicaid Program.

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.

Bobby P. Jindal
Secretary

9607#001

DECLARATION OF EMERGENCY

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

Professional Services Program—Anesthesia Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions,

including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing provides coverage for the injection of therapeutic or diagnostic anesthetic agents. It has been the policy of the bureau to provide reimbursement for anesthesia services provided on the day of surgery or delivery. However this policy has not been promulgated under the Administrative Procedure Act. The bureau has now determined that it is necessary to establish this policy under the Administrative Procedure Act and has adopted the following rule in accordance with the Act. In addition, CPT procedure code 00098 must be used when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$137,326.50 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of services July 10, 1996 and thereafter, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following policy governing the provision of anesthesia services under the Professional Services Program.

1. Anesthesia services are reimbursed for the day of surgery or delivery.

2. CPT procedure code 00098 must be used when a period of several hours lapses between a delivery and the performance of a tubal ligation and the re-injection of the epidural catheter is required.

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.

Bobby P. Jindal
Secretary

9607#023

DECLARATION OF EMERGENCY

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

Professional Services Program—Bilateral Procedures

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97

General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently provides reimbursement for certain bilateral medical and surgical procedures at a rate of 200 percent of the fee on the Physician's Formulary File. The bureau has now determined that it is necessary to reduce reimbursement to 150 percent of the fee on the Physician's Formulary File for certain bilateral procedures. Therefore, the following emergency rule has been adopted to reduce fees for the bilateral procedures listed in the rule. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$505,962 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 10, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces reimbursement for certain bilateral medical and surgical procedures payable under the Professional Services Program. Reimbursement shall be made at 150 percent of the fee on the Physician's Formulary File for the following CPT procedure codes.

30903	31276	49505	69420	31254
49495	49507	69421	31255	49596
49520	69424	31256	49500	49521
69433	31267	49501	49525	69436

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.

Bobby P. Jindal
Secretary

9607#024

DECLARATION OF EMERGENCY

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

Professional Services Program—Reimbursement Reduction

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97

General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing currently reimburses for professional services according to established rates for Current Procedural Terminology (CPT) codes, locally assigned codes and HCPS codes. Effective for dates of service July 1, 1996, and after, the bureau is reducing the reimbursement for the following CPT codes:

- 36415 - for routine finger stick to collect specimen;
- 99211 - outpatient visit, established patient (may not require physician's presence);
- 99212 - outpatient visit, established patient, straightforward medical decision-making;
- 99233 - for subsequent hospital care, medical decision-making of high complexity.

The bureau has now determined through the Legislative Auditor's Report that the fees paid for these four codes were above the southern regional average. Therefore, the following emergency rule has been adopted to decrease the fees for these four codes in the Professional Services Program to the southern regional average. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$1,536,508.65 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of services July 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing reduces the reimbursement for the following CPT procedure codes payable under the Professional Services Program in accordance with the following schedule:

CPT CODE	DESCRIPTION	NEW FEE
36415	Routine finger stick to collect specimen	\$ 2.65
99211	Outpatient visit, established patient (may not require physician's presence)	\$ 9.24
99212	Outpatient visit, established patient straightforward medical decision-making	\$18.91
99233	Subsequent hospital care, medical decision-making of high complexity	\$42.60

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.

Bobby P. Jindal
Secretary

9607#007

DECLARATION OF EMERGENCY

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

Professional Services Program—Surgical Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law". This emergency rule is adopted 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.

The Bureau of Health Services Financing reimburses surgical services under the Professional Services Program but has not previously defined a global surgery period for the reimbursement for these services. The bureau has now determined it is necessary to establish a global surgery period in order to reimburse these services properly. Each CPT surgical procedure code will be assigned to a specific global surgery period. Three global surgery periods consisting the day before and the day of surgery and either zero, 10, or 90 post-operative days will be utilized. Pre- and post-operative visits made during any of these global surgery periods shall be considered to be a part of the surgery fee.

Therefore, the following emergency rule has been adopted to limit payment for pre- and post-operative visits to those exceeding the global surgery periods of zero, 10, or 90 days. This action is necessary to avoid a budget deficit in the medical assistance programs. It is anticipated that implementation of this emergency rule will save approximately \$3,284,288 for state fiscal year 1996-1997.

Emergency Rule

Effective for dates of service July 10, 1996 and thereafter, The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following provisions regarding the payment of pre- and post-operative inpatient and outpatient visits made during the global surgery period.

1. Each CPT surgical procedure code shall be assigned to one of the global surgery periods.

2. Three different global surgery periods will be utilized. One period shall consist of zero days defined as the day before and the day of surgery only; the second period shall consist of 10 days defined as the day before and the day of surgery and 10 post-operative days; and the third period shall consist of 90 days defined as the day before and the day

of surgery and 90 post-operative days.

3. No outpatient or inpatient visits during the global surgery period will be reimbursed unless the diagnosis code for the visit is different from that of the diagnosis code necessitating the surgery.

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.

Bobby P. Jindal
Secretary

9607#025

DECLARATION OF EMERGENCY

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

Rehabilitation Clinic Services—Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act and as directed by the 1996-97 General Appropriation Act, which states: "The Secretary shall implement reductions in the Medicaid program as necessary to control expenditures to the level approved in this schedule. The Secretary is hereby directed to utilize various cost containment measures to accomplish these reductions, including but not limited to pre-certification, pre-admission screening, and utilization review, and other measures as allowed by federal law." This emergency rule is adopted 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.

The Medicaid Program provides coverage and reimbursement for services delivered by rehabilitation clinics which are facilities that are not part of a hospital but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies. The department has determined that it is necessary to reduce the reimbursement to these clinics for physical, occupational, speech, hearing and language therapies. This action is necessary to avoid a budget deficit in the medical assistance programs. It is estimated that this action will reduce expenditures for rehabilitation clinic services by approximately \$77,159 for state fiscal 1996-1997.

In addition, the rehabilitative services physical, occupational, speech, hearing and language continue to be available to recipients through the hospital, physician, home health, rural health clinic and federally qualified health center programs.

Emergency Rule

Effective for dates of service of July 10, 1996 and thereafter, the Department of Health and Hospitals, Office of

the Secretary, Bureau of Health Services Financing reduces the reimbursement by 10 percent to rehabilitation clinics which are facilities that are not part of a hospital but are organized to provide a variety of outpatient rehabilitative services including physical, occupational, speech, hearing, and language therapies.

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.

Bobby P. Jindal
Secretary

9607#027

DECLARATION OF EMERGENCY

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

State-Funded Medically Needy Program

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following emergency rule under 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.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has previously administered the Medically Needy Program under the Title XIX State Plan pursuant to the Social Security Act. The department has now determined that there are insufficient federal funds available under the federal appropriation for implementation of Title XIX of the Social Security Act for Louisiana to continue the administration of the Medically Needy Program. Senate Concurrent Resolution Number 66 requests that the Department of Health and Hospitals find a method to support financially the Medically Needy Program. Therefore, the department has adopted the following emergency rule in compliance with Executive Order 96-17 which authorizes the establishment of a State-Funded Medically Needy Program limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy for June 1996. The State-Funded Medically Needy Program incorporates the same recipient eligibility criteria and scope of services which existed under the Medically Needy Program of the Title XIX State Plan except as otherwise provided herein.

Adoption of this emergency rule is essential to protect those persons who are defined under the eligibility and coverage section of the general provisions outlined below from

imminent peril to their health and welfare that would result should they have no resources for continuing to receive necessary medical services.

Emergency Rule

Effective July 1, 1996 and thereafter, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes a State-Funded Medically Needy Program. The following provisions shall govern the administration of this program by the Bureau of Health Services Financing.

I. General Provisions. The State-Funded Medically Needy Program shall be administered in accordance with requirements of Title XIX of the Social Security Act for the Medically Needy Program under the Act except as described below.

A. Eligibility and Coverage

1. Coverage under this Program shall be limited to individuals who are certified for the Title XIX Medically Needy Program or have a pending application for participation under the Title XIX Medicaid Program and are subsequently found eligible for Title XIX Medically Needy for June 1996.

2. Recipients must continuously meet all the federal eligibility criteria under the Title XIX Medically Needy Program in order to maintain their eligibility status under the State-Funded Medically Needy Program.

3. Recipients who are determined to be potentially eligible under any Title XIX eligibility category or any other benefit must take all appropriate steps to pursue that eligibility including: applying for coverage and providing the necessary information to determine eligibility for the Title XIX category or other benefit.

4. Eligibility for the State-Funded Medically Needy Program will be terminated under the following circumstances:

a. the recipient is determined eligible under a Title XIX category or other benefit;

b. the recipient refuses to apply for coverage or cooperate in the eligibility determination process.

5. The State-Funded Medically Needy Program shall not provide for a process to determine the eligibility of any new eligible beginning July 1, 1996

B. Services. The scope of services and reimbursement for the covered services shall be provided in accordance with the federal and state regulations that governed the Medically Needy Program under Title XIX as previously administered by the Bureau of Health Services Financing.

C. Appeal Rights. Recipients who lose their eligibility under the State-Funded Medically Needy Program shall be afforded the opportunity to appeal the agency's decision in accordance with the Administrative Procedure Act. There shall be no continuation of benefits pending appeal.

Bobby P. Jindal
Secretary

9607#014

DECLARATION OF EMERGENCY

Department of Public Safety and Corrections Gaming Control Board

Definitions; License Issuance/Renewal;
Hearings; Chairman Delegation (LAC 42)

In accordance with the provisions of R.S. 49:950 et seq., the Gaming Control Board hereby determines that adoption of emergency rules relative to authority of the Louisiana State Police, administrative hearings and delegation of authority to the chairman is necessary and that for the following reasons failure to adopt rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Louisiana Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Further, Act 7 provides that all powers, duties, functions and responsibilities of the Riverboat Gaming Commission, Video Gaming Division and Riverboat Gaming Enforcement Division of State Police, and the Louisiana Economic Development and Gaming Corporation are transferred to and shall be performed and exercised by the Louisiana Gaming Control Board, and that the powers, duties, functions and responsibilities and any pending or unfinished business of those regulatory entities becomes the business of and shall be completed by the Louisiana Gaming Control Board with the same power and authority as the entity from which the functions are transferred.

The Legislature has determined that development of a controlled gaming industry to promote economic development of the state requires thorough and careful exercise of legislative power to protect the general welfare of the state's people by keeping the state free from criminal and corrupt elements, and that it is the public policy of the state to this end that all persons, locations, practices, associations and activities related to the operation of licensed and qualified gaming establishments and the manufacture, supply, or distribution of gaming devices and equipment shall be strictly regulated.

Pending the appointment of the Louisiana Gaming Control Board, numerous licensing, investigation and enforcement matters have developed and continue to develop.

Act 7 provides that State Police, the former licensor, may now only issue certain limited licenses and renewals in accordance with rules adopted by the board.

Hundreds of applications require immediate administrative action by the board. Act 7 provides that the board may delegate to the chairman such powers as the board deems appropriate, which, pursuant to the board's rules, may be

performed expeditiously without the necessity of meetings of the board.

In addition, rules governing provisions for administrative hearings are essential to the licensing process and immediate licensing decisions which will be made in the near future to ensure due process is afforded applicants for licenses and permits.

For the foregoing reasons, the Louisiana Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts these emergency rules, effective July 11, 1996, in accordance with R.S. 49:953(B), to be effective for a period of 120 days or until the final rule is promulgated, whichever occurs first.

Title 42

LOUISIANA GAMING

§101. Definitions

Board—the Louisiana Gaming Control Board.

Chairman—the chairman of the Louisiana Gaming Control Board.

Department—the Department of Public Safety, Office of State Police.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

§102. Issuance and Renewal of Licenses by the Department

The department is authorized to issue to qualified applicants, non-key gaming employee permits and nongaming vendors' licenses, and to renew licenses for the operation of video draw poker devices at facilities with no more than three video draw poker devices at their licensed establishment. The department is authorized to determine the applicants' qualifications in accordance with law, including but not limited to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and rules promulgated in accordance therewith, when such provisions and rules are not in conflict with any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

§103. Hearings on Rule 102 Disputes

A. Any person required to be licensed or permitted by the department by authority of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and whose license or permit, or the renewal thereof, has been denied by the department, may request a hearing by the board by filing a written request with the board. The request must be filed within 10 days of receipt of the certified mailing of the denial, or where the notice of denial has been personally served by the department, 10 days from service of the notice.

DECLARATION OF EMERGENCY

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

1996 Alligator Season

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967(D), which provides that the Wildlife and Fisheries Commission use emergency procedures to set the wild alligator season, the Wildlife and Fisheries Commission at its regular monthly meeting held July 9, 1996 in Baton Rouge, LA does hereby set the 1996 wild alligator season dates as follows:

The annual wild alligator season dates shall be September 7, 1996 through October 6, 1996.

This emergency adoption is necessary to allow department biologists adequate time to gather the biological data required to recommend season dates and harvest quotas based on up-to-date information.

The secretary of the Department of Wildlife and Fisheries shall have the authority to close, delay, reopen or extend this season as biologically justifiable.

Glynn Carver
Chairman

9607#037

DECLARATION OF EMERGENCY

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

Spring Inshore Shrimp Season Closure—Zone 2

In accordance with the emergency provisions of R.S. 49:953(B) and R.S. 49:967 of the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, and a resolution adopted by the Wildlife and Fisheries Commission on May 2, 1996 which authorized the secretary of the Department of Wildlife and Fisheries to close the 1996 spring inshore shrimp season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

That the 1996 spring inshore shrimp season shall be closed in all of Zone 2, that portion of Louisiana's inshore waters from the eastern shore of South Pass of the Mississippi River west to the western shore of Vermilion Bay and Southwest Pass at Marsh Island, at 12:01 a.m., Monday, July 8, 1996 (midnight Sunday, July 7, 1996).

Small white shrimp have been taken in recent shrimp samples by department personnel. These small white shrimp

B. 1. A hearing will be conducted in accordance with procedural and evidentiary rules contained in the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., and rules promulgated in accordance therewith.

2. No discovery request shall be made within 20 days of the date scheduled for the hearing.

C. The board may reverse or modify an action if it finds that the action of the department, under facts determined by the board, was contrary to any provisions of the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq., or was contrary to the Louisiana Riverboat Economic Development and Gaming Control Act, R.S. 4:501 et seq., the Video Draw Poker Devices Control Law, R.S. 33:4862.1 et seq., or the Louisiana Economic Development and Gaming Corporation Act, R.S. 4:601 et seq., and any rules promulgated in accordance therewith, when such laws and rules are not in conflict with the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

§104. Delegation to Chairman

A. The chairman is authorized to exercise all powers and authority of the board except that the chairman shall not:

1. enter into contracts in excess of \$100,000;
2. adopt rules;
3. enter into the casino operating contract on behalf of the Louisiana Gaming Control Board;
4. issue a riverboat gaming operator license, provided that the chairman may determine that conditions imposed on a conditionally licensed riverboat gaming operator have been met;
5. approve changes of the berth or design specifications of a riverboat; or
6. approve transfers of ownership interests in a riverboat gaming operator licensee, the casino gaming operator, or a qualified video poker truck stop facility.

B. Any decision, order, or ruling of the chairman exercised pursuant to the provisions of this Rule shall be subject to veto as provided by the Louisiana Gaming Control Law, 1996 Acts, First Extraordinary Session, Number 7, enacting R.S. 27:1 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 22:

Hillary J. Crain
Chairman

9607#053

are widely distributed throughout Zone 2 and the number of white shrimp is expected to increase substantially over the next few weeks.

Zones 1 and 3 will remain open until further notice.

James H. Jenkins, Jr.
Secretary

9606#021

DECLARATION OF EMERGENCY

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

Spring Inshore Shrimp Season Closure—Zone 3

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B) and R.S. 49:967, which allow the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall fix no less than two open seasons each year for all inside waters, and a resolution adopted by the Wildlife and Fisheries Commission on May 2, 1996, which authorized the secretary of the Department of Wildlife and Fisheries to close the 1996 Spring Inshore Shrimp Season in any area or zone when biological and technical data indicates the need to do so, the secretary hereby declares:

That the 1996 Spring Inshore Shrimp Season shall be closed in all of Zone 3, that portion of Louisiana's inshore waters from the western shore of Vermilion Bay and Southwest Pass at Marsh Island to the Louisiana/Texas State line, at 12:01 a.m., Saturday, July 13, 1996 (midnight Friday, July 12, 1996).

Small white shrimp have been taken in recent shrimp samples by department personnel. These small white shrimp are widely distributed throughout Zone 3 and the number of white shrimp is expected to increase substantially over the next few weeks. The closure is necessary to protect these small white shrimp so that they may grow to a larger size.

Zone 1 will remain open until further notice.

James H. Jenkins, Jr.
Secretary

9607#038

Rules

RULE

**Department of Agriculture and Forestry
Forestry Commission**

**Department of Revenue and Taxation
Tax Commission**

Timber Stumpage Values (LAC 7:XXXIX.20101)

In accordance with provisions of the Administrative Procedure Act, R. S. 49:950 et seq., the Department of Agriculture and Forestry, Forestry Commission, and the Department of Revenue and Taxation, Tax Commission hereby amend LAC 7:XXXIX.20101. This amends the regulation establishing the value of timber stumpage for calendar year 1996. This rule complies with the provisions of R.S. 47:633. The effective date of this rule is June 18, 1996.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 201. Timber Stumpage

§20101. Stumpage Values

The Louisiana Forestry Commission, and the Louisiana Tax Commission, as required by R.S. 47:633, adopted the following timber stumpage values based on current average stumpage market values to be used for severance tax computations for 1996:

1. Pine trees and timber	\$ 361.36/MBF	\$ 45.17/ton
2. Hardwood trees and timber	\$ 195.51/MBF	\$ 20.58/ton
3. Pine Chip and Saw	\$ 82.10/cord	\$ 30.41/ton
4. Pine pulpwood	\$ 23.84/cord	\$ 8.83/ton
5. Hardwood pulpwood	\$ 12.63/cord	\$ 4.43/ton

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry and the Forestry Commission, LR 4:9 (January 1978), amended LR 5:7 (January 1979), LR 6:728 (December 1980), LR 7:627 (December 1981), LR 8:651 (December 1982), LR 9:848 (December 1983), LR 10:1038 (December 1984), LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Forestry Commission, LR 12:819 (December 1986), LR 13:432 (August 1987), LR 14:9 (January 1988), LR 15:5 (January 1989), LR 16:16 (January 1990), LR 17:476 (May 1991), LR 18:6 (January 1992), LR 19:611 (May 1993), LR 20:408 (April 1994), LR 21:930 (September 1995), LR 21:1069 (October 1995), amended by the Forestry Commission and Tax Commission, LR 22:581 (July 1996).

Bill Weaver, Chairman
Forestry Commission

Malcolm Price, Chairman
Tax Commission

9607#011

RULE

**Department of Health and Hospitals
Board of Licensed Professional Vocational
Rehabilitation Counselors**

**Requirements and Renewal of License
(LAC 46:LXXXVI.703)**

The Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, under authority of the Louisiana Rehabilitation Counselor Licensing Act, R.S. 37:3441-3452 of the 1988 Legislature and R.S. 36:259(E)(21), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby amends LAC 46:LXXXVI.703 governing the practice of rehabilitation counseling.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part LXXXVI. Licensed Professional Vocational
Rehabilitation Counselors Board of Examiners**

**Chapter 7. Requirements for Licensure and Renewal
of License**

§703. Requirements

A. - D. ...

E. Has received a Master's Degree in vocational rehabilitation counseling or related field and two years of experience under the direct supervision of a licensed vocational rehabilitation counselor or a Bachelor's Degree in vocational rehabilitation counseling or related field and five years of work experience, working under the direct supervision of a licensed vocational rehabilitation counselor. An applicant may subtract one year of the required professional experience for successfully completing Ph.D. requirements in a rehabilitation counseling program acceptable to the board. However, in no case, may the applicant have less than one year of the required professional experience. Effective on the date this amended rule is promulgated, in order to meet the requirements of licensure, one must have a degree in vocational rehabilitation counseling or an approved related degree as listed in Section A below:

SECTION A:

- Clinical or Counseling Psychology;
- Professional Guidance and Counseling;
- Rehabilitation Studies (O.T. and P.T. excluded);
- Special Education (as determined by the board).

The board will consider as a feasible alternative to a vocational rehabilitation degree, a related degree as listed in Section A which includes 42 hours of qualifying courses from an accredited college or university which meet the academic and training content established by the board and listed in Section B below. Both Section A and Section B are at the discretion of the board.

SECTION B:

	HOURS
Orientation of Vocational Rehabilitation	3
Statistics	3

Medical and/or Psycho-Social Terminology of Disabilities	3
Relative to Vocational Performance	3
Psychological and Social Effects of Disabilities	3
Tests and Measurements	3
Occupational Information and/or Job Placement and Job Development	3
Analysis of the Individual	3
Theories of Personality	3
Theories and Techniques of Counseling	6
Demonstrations and Practice of Counseling	3
Field Work or Practicums	9-12
Psychiatric Disorders and/or Substance Abuse	3
Vocational Analysis or Assessment of Persons with Disabilities	3
Introduction to Psychology	3
Abnormal Psychology	3
Introduction to Sociology	3
Developmental Psychology (Adult or Adolescent)	3
Ethics of Counseling	3
	<u>66</u>

A candidate for licensure must have 42 of the 66 hours enumerated, completing each course with a "C" or better. Any substitutions of similar course work will be limited and at the discretion of the board. As of July 20, 1996, anyone possessing an unrelated degree, not specific in the above text, will not be accepted even if they pursue additional course work. Should they obtain an additional degree in the related areas as specified in Section A above, this will be considered.

1. - 1.b.ii. ...

iii. The LRC supervisor as opposed to the work supervisor may supervise no more than three persons at any one time unless the supervisor has no other caseload responsibilities, in which case he/she may supervise up to five counselors.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3447.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 15:277 (April 1989), amended by the Department of Health and Hospitals, Licensed Professional Vocational Rehabilitation Counselors Board of Examiners, LR 19:1570 (December 1993), amended LR 22:582 (July 1996).

Larry S. Stokes
Chairperson

9607#019

RULE

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

**Sanitary Code—Mechanical Wastewater Treatment for
Individual Homes (Chapter XIII)**

In accordance with R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer is amending the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes-Acceptable Units".

Amend the listing to include additional manufacturer and associated plant model specified as follows:

Manufacturer	Plant Designation	Rated Capacity
Murphy Cormier General Contractor, Inc. 2885 Highway 14 East Lake Charles, LA 70605 (318) 474-2804	"Hoot" H-500A H-1000A	500 GPD 1000 GPD
Southern Manufacturing Co P. O. Box 3615 Port Arthur, TX 77640 (800) 992-4501	"Southern Aerobic System" S.M. 500	500 GPD

The specified change is in compliance with the requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Bobby P. Jindal
Secretary

9607#048

RULE

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

Medicaid Eligibility Manual

(Editor's Note: The following rule, published on page 370 of the May 20, 1996 Louisiana Register, is being republished without changes to the original rule text. A price for the Medicaid Eligibility Manual was incorrectly quoted.)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule in the Medicaid Program as authorized by R.S. 46:153 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 Bureau of Health Services Financing adopts the state and federal requirements and procedures governing the determination of eligibility of persons applying for coverage under Title XIX of the Social Security Act which are incorporated in the Medicaid Eligibility Manual, including interim policy guidelines adopted herein. The Medicaid Eligibility Manual contains the following sections:

- A) Abbreviations/Acronyms/Definition- Outline;
- B) Introduction - Outline;
- C) Medical Services - Outline;
- D) Persons Eligible - Outline;
- E) Category - Outline;
- F) Medical Programs - Outline;
- G) Application Process - Outline;
- H) Eligibility Determinations;
- I) Eligibility Outline - Factors;
- J) Issuing Medical Eligibility Cards;

- K) Redeterminations;
- L) Changes - Outline;
- M) Transfer - Outline;
- N) Special Processing - Outline;
- O) Prior Authorization - Outline;
- P) Third Party Liability - Outline;
- Q) Inquiries and Complaints - Outline;
- R) Reserved;
- S) Verification and Documentation - Outline;
- T) Fair Hearings - Outline;
- U) Fraud and Recovery;
- Z) Charts - Outline.

The full text of the Medicaid Eligibility Manual may be viewed at the Office of the State Register. This manual also may be purchased from the Department of Health and Hospitals, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030.

Bobby P. Jindal
Secretary

9607#036

RULE

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

Pharmacy Program—Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medicaid Program as authorized by R.S. 46:153 and pursuant to 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, Bureau of Health Services Financing pays the full co-insurance and the Medicare deductible on pharmacy claims for services provided to Medicaid recipients covered by Medicare Part B.

Bobby P. Jindal
Secretary

9607#049

RULE

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

Professional Services Program—Neonatology Services

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, has adopted 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 adopted 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 adopts the following per diem rates for neonatology services according to the amounts listed for each of the following procedure codes:

- CPT code 99295 - \$596.46
- CPT code 99296 - \$279.52
- CPT code 99297 - \$143.42
- CPT code 99297-52 ("step-down" babies) - \$57.37

Bobby P. Jindal
Secretary

9607#051

RULE

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

Transplant Services—Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has adopted the following rule under the Medical Assistance Program as authorized by R. S. 46:46:153 and pursuant Title XIX of the Social Security Act. This rule is in accordance with the Administrative Procedure Act, R. S. 49:950(B) et seq.

Rule

The Department Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repeals the reimbursement provisions governing organ transplant services contained in the "Hospital Prospective Reimbursement Methodology" rule referenced in the June 20, 1994 *Louisiana Register* (Volume 20, Number 6) and adopts the following provisions to govern Medicaid reimbursement for non-experimental organ transplant services which are prior authorized by the Medicaid Program. Payment is allowable only in accordance with a per diem limitation established for inpatient discharges for organ transplant services reflected for a distinct carve out unit. Each type of organ transplant service must be reported as a separate distinct carve-out unit cost. Organ procurement costs shall be included in the distinct carve-out unit cost and shall be subject to the per diem limitation. The per diem limitation shall be calculated based on inpatient routine and ancillary costs for the transplant carve-out discharges derived from each hospital's base period. The base period is the first cost reporting period beginning with September 30, 1983 through August 31, 1984 in which an allowable transplant was performed on a Medicaid patient. The base period per diem costs for transplant distinct carve-out units shall be inflated annually using the target rate percentage increase for inpatient prospective payment systems (PPS) exempt hospitals' operating costs established by federal statute and published annually in the *Federal Register*. Reimbursement for transplant distinct carve-out unit services shall not exceed the per diem limitation and no incentive payment shall be allowed. The Tax Equity and Fiscal Responsibility Act (TEFRA) provisions governing exceptions and adjustments for inpatient hospital services shall also apply

to the per diem limitation for the reimbursement of distinct carve-out units for organ transplant services. The Medicaid share of each transplant unit's costs subject to the per diem limitation shall be included in the total Medicaid reimbursement at the hospital's cost settlement at fiscal year end.

Bobby P. Jindal
Secretary

9607#050

RULE

Department of Social Services Office of Family Support

Food Stamp Program—Deduction of IRS Processing Fee (LAC 67:III.2005)

The Department of Social Services, Office of Family Support, has amended the Louisiana Administrative Code, Title 67, Part III, Subpart 3, Food Stamps.

The agency currently refers certain delinquent Food Stamp claims to the Internal Revenue Service (IRS) for the purpose of offsetting federal income tax refunds. In compliance with 7 CFR 273.18 (g)(5)(iv)(C), beginning with the 1997 offset year which affects tax returns from prior years, the IRS processing fee is being added to the amount of the delinquent claim and that amount is deducted from the individual's tax refund. The processing fee had previously been paid by the agency. Advance rulemaking is needed because the agency is required to notify individuals of claim actions at least 60 days in advance.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter P. Recovery of Overissued Food Stamp Benefits

§2005. Collection Methods and Penalties

* * *

D. The agency may collect any type of overissuance by using means other than allotment reduction or cash repayment. One of these means is the referral to the Internal Revenue Service of delinquent food stamp claims of previous food stamp recipients for the purpose of offsetting federal income tax refunds. Effective with the 1997 offset year, the IRS processing fee will be added to the claim and that amount will also be deducted from the individual's income tax refund.

E. Before the agency takes action to reduce a household's allotment in order to recover overissued benefits, the household may elect to repay the benefits.

1. The household responsible for overissuance due to an intentional program violation is allowed 10 days to choose between cash repayment or a reduced allotment.

2. The household responsible for overissuance due to an inadvertent error by the household is allowed 20 days to choose between cash repayment or a reduced allotment.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 9:323 (May 1983), amended by the Department of Social Services, Office of Family Support, LR 18:1133 (October 1992), LR 20:391 (April 1994), LR 20:780 (July 1994), LR 20:898 (August 1994), LR 22:584 (July 1996).

Madlyn B. Bagneris
Secretary

9607#047

RULE

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

1996-97 Resident Game Hunting Season
(LAC 76:XIX.101,103)

The Wildlife and Fisheries Commission does hereby promulgate 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, 1996-97 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 22:000 (July 1996).

§103. Resident Game Birds and Animals 1996-1997

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 28— Feb 28	10	20
Rabbit	Oct 5— Feb 28	8	16
Squirrel	Oct 5— Jan 26	8	16
Deer	See Schedule	1 Antlered and 1 Antlerless (When Legal)	6

C. Deer Hunting Schedule

Area	Archery	Still Hunt	Muzzleloader (All Either Sex)	With or Without Dogs
1	Oct 1— Jan 31	Nov 16— Dec 1 Jan 4— Jan 19	Nov 9— Nov 15	Dec 7— Jan 3
2	Oct 1— Jan 31	Oct 26— Dec 6	Oct 19— Oct 25	Dec 7— Jan 5
3	Oct 1— Jan 31	Oct 19— Dec 8 Dec 14— Jan 5	Oct 12— Oct 18	
4	Oct 1— Jan 31	Nov 23— Jan 5	Nov 16— Nov 22	
5	Oct 1— Jan 31	Nov 23— Dec 1	Nov 16— Nov 22 (Bucks Only)	
6	Oct 1— Jan 31	Nov 16— Dec 1	Nov 9— Nov 15	Dec 7— Jan 19
7	Oct 1— Jan 31	Oct 19— Nov 3 Nov 16— Dec 1	Oct 12— Oct 18	Dec 14— Jan 19

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).

Glynn Carver
Chairman

9607#046

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Forestry
Forestry Commission

Forest Tree Seedling Prices (LAC 7:XXXIX.20301)

In accordance with R.S. 49:950 et seq., the Administrative Procedures Act, notice is hereby given that the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission intend to amend LAC 7:XXXIX.20301, Seedling Prices. The proposed rule increases the prices for Improved Pine Seedlings, Advanced Generation Pine Seedlings, and Special Pine Seedlings. These price changes are designed to allow the Office of Forestry to recover production costs for these seedlings. These rules comply with and are enabled by R.S. 3:4303.

Title 7

AGRICULTURE AND ANIMALS

Part XXXIX. Forestry

Chapter 203. Tree Seedlings

§20301. Seedling Prices

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

1. Improved Pine Seedlings	\$32 per thousand
2. Advanced Generation Pine Seedlings	42 per thousand
3. Special Pine Seedlings	52 per thousand
4. Hardwood Seedlings	175 per thousand
5. Baldcypress Seedlings	175 per thousand

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

Order/Sale Volume (Number Seedlings)	Proposed Discounted Prices
- 1,000,000	\$ 32.00/M
1,000,001 - 2,000,000	\$ 31.50/M
2,000,001 - 3,000,000	\$ 31.00/M
3,000,001 - 4,000,000	\$ 30.50/M
4,000,001 - 5,000,000	\$ 30.00/M
5,000,001 - 6,000,000	\$ 29.50/M
6,000,001 -	\$ 29.00/M

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

B.2. - B.3. ...

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

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 8:285 (June 1982), amended LR 10:458 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission, LR 13:432 (August 1987), LR 19:610 (May, 1993), LR 21:671 (July 1995); LR 22:

Interested persons should submit written comments on the proposed rules to Charles Matherne through August 26, 1996, at 5825 Florida Blvd., Baton Rouge, LA 70806. A public hearing will be held on these rules on August 26, 1996 at 9

a.m. at the address listed above. All interested persons will be afforded an opportunity to submit data, views or arguments, orally or in writing, at the hearing. No preamble regarding these rules is available.

Bob Odom
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Seedling Prices

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no additional implementation costs or savings to state or local governments required by the implementation of this action.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
If future sales and production equal those of recent years, Office of Forestry revenue would increase by approximately \$60,000.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Customers who choose to purchase Advanced Generation Pine Seedlings, Improved Pine Seedlings and Special Pine Seedlings from the Office of Forestry would pay the additional costs that his rule would create.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated impact from the proposed action on any in-state company providing similar services. Maintaining a fiscally sound seedling production operation will allow the Office of Forestry to keep all three of its nurseries operating. Closure of any of the nurseries would greatly impact the local economy of the nursery areas by eliminating a source of employment for residents and revenue for local businesses.

Richard Allen
Assistant Commissioner
9607#052

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Commerce and Industry
Financial Incentives Division

Quality Jobs Program (LAC 13:I.Chapter 42)

Under the authority of R.S. 51:2451-2461 the Board of Commerce and Industry has adopted the Louisiana Quality Jobs rules, LAC 13:I.Chapter 42.

The Board of Commerce and Industry has adopted rules in accordance with 1995, Act 1238 which allows the state of Louisiana to provide appropriate tax incentives based on the

creation of jobs and 1996, Act 39 which changed the incentive from a cash payment to a tax credit. This is the first promulgation of the rules for both acts.

Title 13

ECONOMIC DEVELOPMENT

Part I. Commerce and Industry

Subpart 3. Financial Incentives

Chapter 42. Louisiana Quality Jobs Program

§4201. General

A. Intent of Law. To provide incentive tax credits to certain business establishments which qualify as a basic industry.

B. Program Description

1. The qualified establishment must be a basic industry with annual gross payroll for new direct jobs equal to or exceeding \$1,000,000 within three years of the anticipated date on which the establishment will first qualify for the incentive tax credit.

2. The amount of the incentive tax credits must be directly related to the new direct jobs created as a result of the qualified establishment locating in the state. The incentive tax credits cannot exceed the estimated net direct benefits which will accrue to the state as a result of the establishment locating in the state.

3. Approval by the Board of Commerce and Industry, the secretaries of the Department of Labor and the Department of Revenue and Taxation, and the governor is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4203. Definitions

The following words or terms as used in this Chapter shall have the following meaning, unless a different meaning appears from the context.

Basic Industry

1. manufacturing, as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest version; administrative and auxiliary services which are assigned a one-digit auxiliary code in the SIC Manual of 1, 2, or 3; if the business is assigned the one-digit auxiliary code of 3, the business qualifies only if 75 percent of the inventory processed through such warehouse is shipped out of state; or the following, if an establishment classified therein has or will have within one year, sales of at least 75 percent of its total sales, as determined by the Incentive Approval Committee to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government:

a. motor freight transportation and warehousing, as defined or classified under Major Group 42 of the SIC Manual, latest version;

b. transportation by air, as defined or classified under Major Group 45 of the SIC Manual, latest version;

c. arrangement of passenger transportation, as defined or classified under Industry Group 472 of the SIC Manual, latest version;

d. arrangement of transportation of freight or cargo, as defined or classified under Industry Group 473 of the SIC Manual, latest version;

e. insurance carriers, as defined or classified under Major Group 63 of the SIC Manual, latest version;

f. mailing, reproduction, commercial art and photography, and stenographic services, as defined or classified under Industry Group 733 of the SIC Manual, latest version;

g. services to dwellings and other buildings, as defined or classified under Industry Group 734 of the SIC Manual, latest version;

h. miscellaneous equipment rental and leasing, as defined or classified under Industry Group 735 of the SIC Manual, latest version;

i. personnel supply services, as defined or classified under Industry Group 736 of the SIC Manual, latest version;

j. computer programming, data processing, and other computer-related services, as defined or classified under Industry Group 737 of the SIC Manual, latest version;

k. miscellaneous business services, as defined or classified under Industry Group 738 of the SIC Manual, latest version;

l. medical and dental laboratories, as defined or classified under Industry Group 807 of the SIC Manual, latest version;

m. engineering, architectural, and surveying services, as defined or classified under Major Group 87 of the SIC Manual, latest version;

n. water transportation, as defined or classified under Major Group 44 of the SIC Manual, latest version;

o. communication, as defined or classified under Major Group 48 of the SIC Manual, latest version, excepting subgroups 4832 and 4833.

2. In addition to LAC 13:I.4203.A.1 above, to be considered engaged in a basic industry the establishment shall offer within 180 days of the date it first qualifies for the incentive tax credit, a basic health benefits plan to all employees who occupy "new direct jobs" in accordance with R.S. 51:2453(1)(b). The basic health benefits plan must provide:

a. at least 50 percent of the premium is paid by the employer;

b. coverage must provide for basic hospital care which includes, but is not limited to:

i. in-patient services such as hospitalization, doctor visits in the hospital, any other care such as tests, x-rays, treatments, emergency services, blood, anesthesia, bed and board, drugs, general nursing services, medical and surgical supplies, and out-patient tests 72 hours prior to admission;

ii. out-patient services for surgery;

c. basic physician care for/but not be limited to such things as annual PAP Smear and immunization shots, but not well visits.

3. Any establishment engaged in the gaming industry shall not be eligible to apply for benefits under this Chapter.

New Direct Job—full-time-equivalent employment with a qualified establishment, in a job that previously did not exist

in this state prior to the date of approval of the contract by the Board of Commerce and Industry.

Estimated Direct State Benefits—the tax revenues projected by the Department of Economic Development to accrue to the state as a result of new direct jobs. The factor used to determine the estimated direct state benefits is 6 percent of the gross payroll associated with the qualifying project. (This factor is widely used by Louisiana state government officials in determining economic impacts, tax projections, etc. The factor was obtained from the Legislative Fiscal Office and is also used by the State Budget Office and statewide by economists who participate in revenue projections and economic impact analyses.)

Estimated Direct State Costs—the costs projected by the department to accrue to the state as a result of new direct jobs. The estimated direct state costs are determined from the current annual per capita state general fund expenditure being made by the state to care for its citizens multiplied by the total number of new state residents resulting from the qualified establishment locating in the state. The direct outlay of additional state funds to the qualified establishment is also a direct state cost. The average annual value of that cost over the useful life of the item purchased or built will be included in this direct cost determination. Such costs shall include but not be limited to the following:

1. the costs of education of new state resident children;
2. the costs of public health, safety, and transportation services to be provided to new state residents;
3. the costs of other state services to be provided to new state residents;
4. the costs of employee training and other state services.

Estimated Net Direct State Benefits—the estimated direct state benefits, not including revenues projected to accrue to municipal and parish governments, less the estimated direct state costs.

Net Benefit Rate—the estimated net direct state benefits computed as a percentage of gross payroll over the five-year contract period; however, the net benefit rate shall not exceed 5 percent. Formula:

Estimated (5 year) Direct State Benefits - Estimated (5 year) Direct State Costs = Estimated (5 year) Net Direct State Benefits

Estimated (5 year) Net Direct State Benefits / (5 year) Estimated Gross Payroll = Net Benefit Rate

Gross Payroll—wages paid for new direct jobs as defined herein.

Wages—all remuneration for services from whatever source, including commissions, bonuses, cash value of all remuneration in any medium other than cash, dismissal payments and gratuities. The latter two shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals, including any amount paid by an employing unit

for insurance or annuities, or into a fund to provide for any such payment, on account of:

- a. retirement;
- b. sickness or accident disability;
- c. medical and hospitalization expenses in connection with sickness or accident disability;
- d. death, provided the individual in its employ:
 - i. has not the option to receive, instead of provision for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employing unit;
 - ii. has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employment unit;
- e. a bona fide thrift or savings fund, providing:
 - i. such payment is conditioned upon a payment of a substantial sum by such individuals in its employ;
 - ii. such sum paid by the employing unit cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12-month period, except upon an individual's separation from that employment;
- f. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 330(b)(5)(G);
- g. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 330(b)(13);
- h. the payment by an employing unit, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980;
- i. dismissal payments which the employer is not required by law or contract to make;
- j. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

Establishment—for purposes of this Chapter, any business entity, including but not limited to a sole proprietorship, limited liability partnership, limited liability company, partnership, corporation, or combination of corporations which have a central parent corporation which makes corporate management decisions such as those involving consolidation, acquisition, merger, or expansion.

Date the Establishment First Qualifies for the Incentive Tax Credit—the date the contract between the Board of Commerce

and Industry and the establishment is approved and signed by the governor.

Department—for purposes of this Chapter, the Department of Economic Development.

Incentive Approval Committee—will consist of the following members of the Department: Financial Incentives Division Director, the Deputy Assistant Secretary of the Office of Policy and Research, the Deputy Assistant Secretary of the Office of Commerce and Industry, the General Counsel of the DED, and the Quality Jobs Program Administrator, or their representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4205. Qualified Establishment

A. In order to become a qualified establishment under this Chapter the business entity must:

1. be engaged in a basic industry as defined in LAC 13:I.4203.A;

2. have an annual gross payroll for new direct jobs projected by the department to equal or exceed \$1,000,000 dollars within three years of the anticipated date on which the qualified establishment will receive its first incentive tax credit. The criteria for the projection is defined in LAC 13:I.4209;

3. have a number of full-time employees working an average of 25 or more hours per week in new direct jobs equal to, or in excess of, 80 percent of the total number of new direct jobs;

4. must offer a basic health benefits plan to new employees.

B. A subunit of an entity may be classified as an establishment if engaged in an activity or service or production of a product which is demonstratively independent and separate from the entity's other activities, services, or products and can function in the absence of any other functions of the entity. Limited interunit overlap of administrative and purchasing functions will not disqualify a subunit from consideration as an establishment by the department. The "expansion" of a facility which already exists in Louisiana and has an existing contract under this Chapter, must be a "subunit" as defined in this Chapter. An expansion, of an entity without a contract under this Chapter, must be a stand alone operation.

1. The entity shall have a minimum payroll of \$1,000,000 and the subunit shall also have a minimum payroll of \$1,000,000.

2. Subunit of an entity must have an accounting system capable of tracking payroll, expenses, revenue, and production and must continue such an accounting system during the contract period under this Chapter.

3. The entity has not previously had a subunit in Louisiana determined to be an establishment pursuant to this Chapter. Only one subunit of an entity can receive the benefits of this program.

4. The department will determine on a case-by-case

basis, using the parameters established by statute, any circumstances under which a subunit may be considered an establishment and make those recommendations to the Board of Commerce and Industry.

5. The department must have determined that the subunit will have a probable net gain in total employment within the original five-year contract period.

6. The department will determine on a case-by-case basis the criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment. In order to make these determinations in an impartial and objective manner, the department will employ nationally recognized standards (ie: the RMA Annual Statement Studies).

C. A qualified establishment cannot be engaged in the gaming industry.

D. If the applicant is determined to be qualified by the department, the department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a 10-year period and to estimate the amount of gross payroll for a 10-year period.

E. An expansion may be eligible if they meet the minimum criteria as defined in LAC 13:I.4203.A.1 and 2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4207. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form.

B. Application for incentive tax credits must be filed with the Office of Commerce and Industry, Box 94185, Baton Rouge, Louisiana, 70804-9185 on the form prescribed. Failure to file an application prior to location or job creation may result in the application being denied or restricted.

C. An application fee shall be submitted with the application based on the following:

1. 0.2 percent times the estimated total incentive tax credits (see application fee worksheet attached);

2. minimum application fee is \$200, maximum application fee is \$5000 for all financial incentive programs for a single project;

3. make checks payable to: Louisiana Office of Commerce and Industry.

D. The Office of Commerce and Industry reserves the right to return the advance notification, application, or affidavit of final cost to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees, for advance notifications, applications, or affidavits of final cost which have been accepted for eligible projects, shall not be refundable.

E. Applications must be submitted to the Office of Commerce and Industry at least 60 days prior to the next regular scheduled Board of Commerce and Industry Screening Committee meeting at which the application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4209. Application Review, Analysis, Evaluation, Determination

A. The department will assign an application number and review the advance notification form to determine if the establishment qualifies pursuant to §4203.A.

B. The application package must be complete (any exceptions must be authorized in writing by the department). All sections of the application form must be filled in. If the application is incomplete, additional information may be requested prior to further action by the department. The appropriate application fee must accompany the application package (see fee schedule in §4207.C).

C. Program Qualification. The department shall determine that the establishment or a subunit qualifies as a basic industry which will have a minimum of \$1,000,000 gross payroll dollars within three years of the anticipated date on which a establishment will first qualify for the incentive tax credit.

1. The applicant must present a copy of the proposed basic health benefits plan it will offer. The department will verify that the plan has been implemented prior to certifying continued eligibility of the establishment.

2. The department will analyze proposed new direct jobs to determine if they meet the program criteria

3. The establishment must furnish all sources of remuneration that make up the wages which are used in the determination of the gross payroll. A listing which identifies all positions, with corresponding wages, shall be furnished to verify the gross payroll.

4. The anticipated date (the date the application will be presented to the Board of Commerce and Industry) on which the establishment will first qualify for the incentive tax credit will be determined by the department.

D. Documentation Required. The application information shall be submitted on forms provided by the department.

E. Analysis, Determination

1. If the applicant is determined to be a qualified establishment by the department, the department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a 10-year period and to estimate the amount of gross payroll for a 10-year period.

2. In conducting such cost/benefit analysis, the department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and any other information deemed necessary or appropriate by the department.

3. It is determined by the department that the entity will have a probable net gain in total employment within the original five-year contract period.

4. The department will use the number of nonresident employees in the calculation of the net benefit rate. The applicant will furnish the estimated number of Louisiana residents and nonresidents on the application form.

5. For the purpose of financial incentive programs administered by the department, a Louisiana resident is one who has lived in the state for 30 consecutive days.

6. In no event shall incentive tax credits cumulatively exceed the estimated net direct state benefits.

F. The department will determine the estimated direct state benefits, the estimated direct state costs, the estimated net direct state benefits, and the net benefit rate based in part on the information provided in the application.

G. Application Procedures/Steps. The department reserves the right to require any additional information, not contemplated herein, which may be necessary in order for it to comply with its obligations under this Chapter and R.S. 51:2451-R.S. 51:2461.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4211. Application to Department of Labor

The department will send a copy of the application and all related information to the Department of Labor. The department must obtain a letter-of-approval or a letter-of-no-objection, from the Department of Labor, prior to submitting the application to the Board of Commerce and Industry for approval. The Department of Labor may require additional information from the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4213. Application to Department of Revenue and Taxation

A. Prior to approval by the Board of Commerce and Industry, the department will send a copy of the application and all related information to the Department of Revenue and Taxation. A copy of cost/benefit analysis performed by the department will accompany such information. The Department of Revenue and Taxation may require additional information from the applicant.

B. The Board of Commerce and Industry must obtain a letter-of-approval or a letter-of-no-objection from the Department of Revenue and Taxation prior to approval of the application.

C. Upon approval of such an application, the department shall notify the Department of Revenue and Taxation. The Department of Revenue and Taxation may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4215. Commerce and Industry Recommendations to Board

A. The department after review and analysis, will process the application information in a format suitable for presentation to the Board of Commerce and Industry.

B. The presentation of determinations (ie: estimated direct state benefits, estimated direct state costs, estimated net direct state benefits, net benefit rate will include all formulas and assumptions made.

C. The contract must be approved by the Board of Commerce and Industry.

D. The department will make the recommendations for approval or disapproval, and will provide information on behalf of the Department of Revenue and Taxation and the Department of Labor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4217. The Contract

A. The initial contract may be approved for a period of up to five years. The contract may be renewed for up to an additional five years. The first year of the contract shall be the beginning of the taxable year in which the contract is approved and it shall terminate on the last day of the fifth taxable year. If the contract is renewed, it shall terminate on the last day of the tenth taxable year.

B. The date the establishment first qualifies for the incentive tax credit shall be the date the contract between the Board of Commerce and Industry and the establishment is approved and signed by the governor.

C. The terms of the contract for incentive tax credits shall contain the following requirements.

1. If, within three years of the date that the establishment first qualifies for the tax credit, the actual verified gross payroll for twelve consecutive months does not equal or exceed a total of \$1,000,000, the tax liability for the current taxable period shall be increased by the amount of incentive tax credits previously allowed. If at any other time during the contract period, the actual verified gross payroll for 12 consecutive months does not equal or exceed a total of \$1,000,000, the incentive tax credits shall be suspended and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in this Subsection. However, in no event shall incentive tax credits cumulatively exceed the estimated net direct state benefits.

2. The net benefit rate established under LAC 13:I.4205.G shall remain the same for the period of the contract.

3. The net benefit rate cannot exceed 5 percent of gross payroll.

4. If a qualified establishment, with an active contract under this Chapter, expands beyond the originally estimated gross payroll, it may make a new application for additional incentive tax credits based on the new gross payroll anticipated from the expansion.

5. In order to show continued eligibility, the contractee shall annually provide to the department, a copy of the basic insurance plan being implemented and all data sent to the

department of Revenue and Taxation for the annual tax incentive credit. The establishment may be audited by the department to verify such eligibility. The approved contract between the establishment and the department shall authorize the continued incentive tax credit as long as the establishment retains its eligibility as defined in and established pursuant to this Section and R.S. 51:2453 and 2457 and within the limitations contained in this Chapter, as it existed at the time of such approval.

D. A contract of renewal will be considered by the department subject to the same conditions as the original application. The contractee shall apply for a renewal contract at least six, but not more than 12 months prior to the expiration of the initial contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4219. Incentive Tax Credits

A. Incentive tax credits may be taken for the taxable periods specified in the contract against Louisiana corporation and personal income taxes and corporation franchise tax in an amount equal to the net benefit rate provided by the department multiplied by that years gross payroll of new direct jobs as verified by the Department of Labor.

B. Incentive tax credits cannot exceed net direct state benefits (the estimated state benefits minus all costs to the state as a result of the establishment moving to or expanding in the state) that will accrue to the state as a result of the entity locating in Louisiana.

C. The net gain in total employment will be calculated by the contractee and certified by the department by using the following method:

1. calculate the average monthly employment using a summary of the four Quarterly Reports of Wages Paid (Department of Labor Form ES-4) covering the 12-month taxable period. The contractee will include copies of all Form ES-4's submitted to the Department of Labor which were used to calculate this average;

2. subtracting the average number of employees at the beginning of the project yields the new direct jobs;

3. verify, by providing a list, showing that 80 percent or more of the new direct jobs worked an average of 25 hours or more per week during that 12-month period;

4. total the gross payroll of the new direct jobs to verify that the minimum \$1,000,000.00 is met;

5. multiply the gross payroll by the net benefit rate to obtain the incentive tax credit for that taxable period.

D. The contractee must file with the department on forms prescribed for the annual incentive tax credit.

E. The annual incentive tax credit must be based on the net benefit rate originally established.

F. The department will perform an audit, if deemed necessary, to verify information provided pursuant to LAC 13:I.4219.C for continued eligibility.

G. Within 60 days of receipt of a completed request form for the respective year's incentive tax credit, the department will notify the Department of Revenue and Taxation in writing of the contractee's continued eligibility.

(Note for Informational Purposes Only: Any excess of allowable credits over the aggregate tax liabilities against which such credit can be applied under this Chapter shall constitute an overpayment as defined in R.S. 47:1621(A). The contractee shall apply to the secretary of the Department of Revenue and Taxation for refund of such overpayment at the time of filing their state tax return.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4221. Prohibited Incentives

A qualified establishment that enters a contract under this Chapter will not be eligible to receive the other credits or exemptions listed under R.S. 51:2458:

1. R.S. 47:34 (tax credit for generation of new jobs in Louisiana);
2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);
3. R.S. 47:4301 through 4306 (The Industry Assistance Program—income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);
4. R.S. 47:6004 (employer credit for employment of previously unemployed person);
5. R.S. 47:6009 (Louisiana basic skills training tax credit—income tax credit);
6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);
7. R.S. 51:1787 (incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in enterprise zone);
8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees—corporate income tax);
9. R.S. 47:287.749 (corporate income tax credit for new jobs);
10. R.S. 47:287.753 (neighborhood assistance income tax credit).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4223. Penalties

Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, claim for tax credit, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4225. Termination of Program

No new application or renewal application will be approved under this Chapter by the Board of Commerce and Industry after January 1, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

§4227. Severability

If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter which is in conflict with R.S. 51:2451- R.S. 51:2461 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2461 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economical Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 20, 1996, at 4:30 p.m. to Mr. R. Paul Adams, Director, Business Incentives Division, Office of Commerce and Industry, Box 94185, Baton Rouge, LA 70804-9185.

Harold Price
Assistant Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Quality Jobs Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The Louisiana Quality Jobs Program provides a financial incentive to encourage certain basic industries to locate in Louisiana in order to promote economic development and the creation of quality jobs. The Board of Commerce and Industry has adopted rules in accordance with 1996, Act 39 (H.B. 151) which allows the Board of Commerce and Industry to enter into contracts providing tax credits to businesses that increase their payroll by a minimum of \$1,000,000 within the first three years of the contract period, with 80 percent of the employees working 25 hours or more per week, and offer a basic health care plan of which they pay not less than 50 percent of the premium.

The tax incentive credit is based on the following formula: Estimated (5 year) Direct State Benefits (Revenues projected to accrue to the state as a result of the new jobs) less Estimated (5 year) Direct State Costs (costs projected to accrue to the state as a result of the new jobs, such as a new road, training, new resident costs such as education, public health, etc.) equals Estimated (5 year) Net Direct State Benefits. Estimated Net Direct Benefits (above) divided by (5 year) Estimate Gross Payroll equals Net Benefit Rate. The Annual Gross Payroll is multiplied by the Net Benefit Rate, which remains the same for the period of the contract. The tax incentive credit cannot exceed 5 percent of the new additional payroll.

The Department of Economic Development will incur additional responsibilities created by 1995 Act 1238 and Act 39, which will have to be assimilated into the existing workload. There will be no additional cost to state or local governments to implement this program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The creation of new jobs will have a positive effect on state and local revenues as a result of the proposed new rules. No estimate can be made of the effect on the revenue collections of state and local governments because the department cannot determine what the gross annual payroll of participating companies will be. However, the department estimates an

overall net gain in state revenues resulting from the new jobs created, and an increase in local revenues. The tax credits allowed by the program will decrease state income taxes, and corporate franchise taxes. The department estimates receiving approximately 10 applications annually which would be required to remit a minimum \$400 application fee each, resulting in an increase in state self-generated revenue of \$4,000+ annually.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Participating companies will benefit by receiving tax credits of up to 5 percent of their annual gross payroll, which can be applied against their Louisiana corporate or personal income tax and corporate franchise tax. The increase in jobs will increase spending by the new employees in the surrounding areas. If a participating company's tax credits exceed their tax liabilities, they would receive a refund.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The intent of the Quality Jobs Program is to help Louisiana compete with other states to attract new businesses, to stimulate business and industrial growth and to provide additional quality jobs for Louisiana citizens. No estimate of the number of new jobs that will be created can be made.

R. Paul Adams
Director
9607#055

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

LEO Adverse Credit

The Student Financial Assistance Commission (LASFAC), advertises its intention to change the adverse credit provisions of the Louisiana Employment Opportunity Loan Program. Section 2.5.E.2.a and b will be amended to read as follows:

2.5 The Louisiana Student Financial Assistance Commission (LASFAC, the Guarantor) shall:

A. - E.2. ...

Note: Adverse credit is defined as a credit report that contains any of the following:

a. information reflecting that the borrower, within the four years preceding the date of the credit report, was the subject of a default determination, foreclosure, repossession, tax lien, wage garnishment, write-off or any federal or state government action to collect a debt; or

b. an established pattern of delinquency in the payment of debt as evidenced by:

- (1). two accounts more than 90 days past due; or
- (2). any account more than 180 days past due.

Interested persons may submit written comments on the proposed rule until 4:30 p.m., September 20, 1996, to: Jack L.

Guinn, Executive Director, Office of Student Financial Assistance, Box 91202, Baton Rouge, LA 70821-9202.

Jack L. Guinn
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: LEO Adverse Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The rule change will provide 110 more loans annually, amounting to \$220,000 in loans annually. Estimated cost for administration and payment of these higher risk loans upon default is \$23,759 for 1996-97; \$24,509 for 1997-98; and \$25,169 for 1998-99. The costs will be met by the revenue generated by the increased loan volume and the reserve fund.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The estimated revenue increase is \$15,180 for 1996-97; \$15,635 for 1997-98; and \$16,104 for 1998-99. The cumulative revenue balance will be placed in the restricted Louisiana Employment Opportunity loan account until needed.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Liberalizing the definition of adverse credit will result in the acceptance of potential trainees that the employer would like to recruit into this program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional borrowers who are enabled to procure a Louisiana Employment Opportunity loan due to this rule change will have the opportunity to receive training and begin employment.

Jack L. Guinn
Executive Director
9607#068

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Chemical Accident Prevention Program (LAC 33:III.Chapter 59) (AQ126F)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 59 (AQ126F).

The existing regulation defines, for a major stationary source ("A1" sources and "A2" sources in the Compliance Data System [CDS] maintained by the Air Quality Division of

DEQ), the "threshold quantity" of a regulated substance that must be present at a facility for that facility to be subject to this rule. Under the existing rule only registration is required. This rule repeals the following sections in their entirety LAC 33:III.5905, 5909, 5915, 5917, 5919, 5921, 5923, 5925, 5927, 5929, 5931, 5933, 5935, 5937, 5939, 5941, 5943.

The proposed rule is identical to the federal rule. It defines what regulated facilities must do to minimize the risks associated with that facility. The regulations for the three program levels vary in amount and complexity for compliance with the program. The program levels are set up in such a way as to target those facilities that are most prone to accidents, as determined through research conducted by EPA. This action is required by R.S. 30:2054 and 30:2063.

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.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 59. Chemical Accident Prevention Program

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68 (July 1, 1995), as amended in 61 CFR 31668-31730 (June 20, 1996) and in 61 CFR 31730-31732 (June 20, 1996).

B. The volumes containing those federal regulations listed in Subsection A of this Section may be obtained from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402.

C. Modifications or Exceptions. The following modifications or exceptions are made to the incorporated federal standards:

1. In 40 CFR 68.3 Definitions:

a. *Act*—either the Clean Air Act as amended (42 U.S.C. 7401 et seq.) or the Louisiana Environmental Quality Act, Subtitle II of Title 30.

b. *Administrator* or *Regional Administrator*—the administrator of the United States Environmental Protection Agency or his authorized representative.

c. *Implementing Agency*—Louisiana Department of Environmental Quality.

2. United States Environmental Protection Agency, U.S. Environmental Protection Agency, or EPA shall mean United States Environmental Protection Agency, except that it shall mean Louisiana Department of Environmental Quality in 40 CFR 68.150(a), 68.190(a), and 68.190(c).

3. In 40 CFR 68.10(a)(2) and 40 CFR 68.190(b)(2), the requirement is modified to read, "Three years after the date on which a new regulated substance is first listed by EPA under 40 CFR 68.130, provided that the department shall have adopted the addition of the new substance to 40 CFR 68.130 by three years after the date of the new EPA listing."

4. In 40 CFR 68.210, the availability of information to the public shall be ensured by the Louisiana Public Records Act, R.S. 44:1 et seq., except as otherwise declared confidential pursuant to R.S. 30:3020.

5. In 40 CFR 68.215, the air permitting authority shall refer to Louisiana Department of Environmental Quality permitting authority in LAC 33:III.Chapter 5.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:

§5903. Definitions

The terms in this Chapter are used as defined in LAC 33:III.111 except those terms specifically defined in an applicable subchapter or defined herein as follows:

[Editor's Note: All definitions in this Section are hereby repealed, except for the definition of *Major Stationary Source* as it currently exists.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:

The following sections are hereby repealed in their entirety: LAC 33:III.5905, 5909, 5915, 5917, 5919, 5921, 5923, 5925, 5927, 5929, 5931, 5933, 5935, 5937, 5939, 5941, 5943.

A public hearing will be held on August 29, 1996, 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 please 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 AQ126F. Such comments should be submitted no later than September 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX (504) 765-0486.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Chemical Accident Prevention Program

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are additional costs anticipated by this revision to the original chemical accident prevention rule promulgated in April 1994. It is anticipated that these revisions to the existing chemical accident prevention rule will cost LDEQ \$0 in FY 96-97; \$591,050 in FY 97-98; and \$522,708 in FY 98-99. LDEQ will be proposing fee legislation to fund the program in FY 97-98, which if adopted will be sufficient to cover the additional costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This rule has provisions for exempting gasoline and naturally occurring hydrocarbon under certain conditions. Because of

these provisions an estimated 150 oil and gas facilities that had previously registered with DEQ will no longer be regulated by the Chemical Accident Prevention program. This will result in a net decrease in revenues of approximately \$23,250 for FY 96-97. LDEQ will be proposing fee legislation to cover additional funding for the program starting in FY 97-98, which if adopted will be sufficient to cover the additional costs.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The impact will be felt by stationary sources that have regulated substances over the threshold quantity in a process.

The facilities will determine their program level based on the type of regulated process and their potential for off-site impact. They will also have to do a Risk Management Plan and the complexity of the plan will be determined by the program level of the facility.

The requirements of the prevention program is designed to reduce the number and severity of accidents. The Risk Management Plan and required training with local emergency response committees is designed to minimize the effect of any release of regulated substances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no significant impact expected on competition or employment with the promulgation of this proposed rule.

Gus Von Bodungen
Assistant Secretary
9607#058

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

**Chemical Accident Prevention Program
(LAC 33:III.Chapter 59) (AQ126L1)**

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 59 (AQ126L1).

This rule clarifies the difference in registration schedules for stationary sources that have already registered with LDEQ and for those sources that have not yet registered but will be required to do so at a later date. L1 package is proposed for clarification to the registration requirements.

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.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 59. Chemical Accident Prevention Program
§5910. Registration Schedule**

A. Major stationary sources, as defined in LAC 33:III.5903, shall comply with LAC 33:III.5911.

B. All stationary sources, including major stationary sources, that have a covered process shall comply with 40 CFR 68.160 on the date specified in 40 CFR 68.10.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5911. Registration for Major Stationary Sources

* * *

[See Prior Text in A-B.4]

5. the name, address and telephone number of a knowledgeable contact person or a person or position with the overall responsibility for the development, implementation, and integration of accident prevention program requirements; and

* * *

[See Prior Text In B.6]

C. If at any time after the submission of the registration, information in the registration is no longer accurate, the owner or operator shall submit an amended notice within 60 days to the administrative authority and the Department of Environmental Quality, Air Quality Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:426 (April 1994), amended LR 22:

A public hearing will be held on August 29, 1996, 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 please 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 AQ126L1. Such comments should be submitted no later than September 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX number (504) 765-0486.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Chemical Accident Prevention Program**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation cost (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected 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 are no expected costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no expected effect on competition and employment.

Gustave Von Bodungen
Assistant Secretary
9607#059

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Chemical Accident Prevention Program
(LAC 33:III.Chapter 59) (AQ126L2)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.Chapter 59 (AQ126L2).

The L2 Package adds nitrogen tetroxide to the existing list of toxics. It also creates a general duty section which includes a new list of chemicals which the facilities will have to consider. Facilities will only have to address this new list of chemicals with requirements within this general duty section and not with the whole rule. The facilities will have the option to address any chemicals they have on the new list, in accordance with the whole rule.

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.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 59. Chemical Accident Prevention Program
§5907. General Duty**

The owners and operators of stationary sources producing, processing, handling, or storing substances listed in 40 CFR 68.130, Table 59.0 of this Section, or Table 59.1 of LAC 33:III.5913 in quantities greater than the threshold quantities

listed in those respective places (as determined in the manner described in 40 CFR 68.115), have a general duty in the same manner and to the same extent as Section 654 of Title 29 of the United States Code (Occupational Safety and Health Act) to identify hazards that may result from accidental releases of such substances using appropriate hazard assessment techniques, to design and maintain a safe facility, and to minimize the off-site consequences of accidental releases of such substances that do occur. For the purposes of this Section the provisions of R.S. 30:2026 (Citizen Suits) shall not be available to any person or otherwise be construed to be applicable to this Section. Nothing in this Section shall be interpreted, construed, implied, or applied to create any liability or basis for suit for compensation for bodily injury or any other injury or property damages to any person that may result from accidental releases of such substances.

Table 59.0 Supplemental List of Regulated Substances and Their Threshold Quantities for Accidental Release Prevention		
CAS Number	Chemical Name	Threshold Planning Quantity (pounds)
Varies	Alkylaluminums	5000
107-05-1	Allyl chloride	1000
7790-98-9	Ammonium perchlorate	7500
7787-36-2	Ammonium permanganate	7500
13863-41-7	Bromine chloride	1500
7789-30-2	Bromine pentafluoride	2500
7787-71-5	Bromine trifluoride	15000
106-96-7	Bromopropyne (3-) (Propargyl bromide)	100
75-91-2	Butyl hydroperoxide (tertiary)	5000
614-45-9	Butyl perbenzoate (tertiary)	7500
353-50-4	Carbonyl fluoride	2500
9004-70-0	Cellulose nitrate (Conc>12.6 percent nitrogen)	2500
13637-63-3	Chlorine pentafluoride	1000
7790-91-2	Chlorine trifluoride	1000
97-00-7	Chloro-2,4-dinitrobenzene (1-)	5000
96-10-6	Chlorodiethylaluminum	5000
76-06-2	Chloropicrin	500
None	Chloropicrin and methyl bromide mixture	1500

None	Chloropicrin and methyl chloride mixture	1500
80-15-9	Cumene hydroperoxide	5000
675-14-9	Cyanuric fluoride	100
110-22-5	Diacetyl peroxide (Conc>70 percent)	5000
334-88-3	Diazomethane	500
94-36-0	Dibenzoyl peroxide	7500
110-05-4	Dibutyl peroxide (tertiary)	5000
7572-29-4	Dichloro acetylene	250
557-20-0	Diethylzinc	10000
105-64-6	Diisopropyl peroxydicarbonate	7500
105-74-8	Dilauroyl peroxide	7500
97-02-9	Dinitroaniline (2,4-)	5000
1338-23-4	Ethyl methyl ketone peroxide (Conc>60 percent)	5000
371-62-0	Ethylene fluorohydrin	100
684-16-2	Hexafluoroacetone	5000
10035-10-6	Hydrogen bromide	5000
7722-84-1	Hydrogen peroxide (conc>=52 percent by weight)	7500
7803-49-8	Hydroxylamine	2500
463-51-4	Ketene	100
78-85-3	Methacrylaldehyde	1000
920-46-7	Methacryloyl chloride	150
30674-80-7	Methacryloyloxyethyl isocyanate	100
74-83-9	Methyl bromide	2500
453-18-9	Methyl fluoroacetate	100
421-20-5	Methyl fluorosulfate	100
74-88-4	Methyl iodide	7500
79-84-4	Methyl vinyl ketone	100
100-01-6	Nitroaniline(p-)	5000
7783-54-2	Nitrogen trifluoride	5000
10544-73-7	Nitrogen trioxide	250
75-52-5	Nitromethane	2500
20816-12-0	Osmium tetroxide	100

7783-41-7	Oxygen difluoride	100
19624-22-7	Pentaborane	100
7601-90-3	Perchloric acid (Conc>60 percent by weight)	5000
7616-94-6	Perchloryl fluoride	5000
627-13-4	Propyl nitrate	2500
107-44-8	Sarin	100
7783-79-1	Selenium hexafluoride	1000
7803-52-3	Stibine (Antimony hydride)	500
5714-22-7	Sulfur pentafluoride	250
7783-80-4	Tellurium hexafluoride	250
10036-47-2	Tetrafluorohydrazine	5000
7719-09-7	Thionyl chloride	250
1558-25-4	Trichloro (chloromethyl)silane	100
27137-85-5	Trichloro (dichlorophenyl)silane	2500
2487-90-3	Trimethoxysilane	1500

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

§5913. Supplementary List of Regulated Substances

All the requirements of this Chapter for regulated substances listed in 40 CFR 68.130 shall also apply to the supplementary list of chemicals in Table 59.1 of this Section present at stationary sources in more than the threshold quantities listed in Table 59.1 of this Section. If a new substance is added to Table 59.1, an owner or operator of a stationary source that has more than a threshold quantity of that substance shall comply with all the requirements of this Chapter for regulated substances listed in 40 CFR 68.130 no later than three years after the date the substance is first listed in Table 59.1.

CAS Number	Chemical Name	Threshold Planning Quantity (pounds)
10544-72-6	Nitrogen Tetroxide	250

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:

A public hearing will be held on August 29, 1996, 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 please 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 AQ126L2. Such comments should be submitted no later than September 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX (504) 765-0486.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Chemical Accident Prevention Program
(AQ126L2)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no expected 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 are expected costs of approximately \$232,000 to affected facilities to comply with this rule.
The benefits from complying with this rule could be in the millions of dollars. Preventing just one accident, such as the one at the facility at Norco, could have saved \$327,000,000.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no expected effect on competition and employment.

Gus Von Bodungen
Assistant Secretary
9607#060

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Crematories (LAC 33:III.2531) (AQ142)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2531 (AQ142).

The proposed changes would remove the thickness requirement under the definition of appropriate containers and would remove Section K.1, which requires a visual emissions test once every five years. These changes will have a negligible environmental impact while reducing the financial burden on the regulated community.

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.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 25. Miscellaneous Incineration Rules

Subchapter D. Crematories

§2531. Standards of Performance for Crematories

* * *

[See Prior Text in A]

B. Definitions. Terms used in this Section are defined in LAC 33:III.111 of these regulations with the exception of those terms specifically defined below as follows:

Appropriate Containers—plastic bags used as containers for animal remains shall be nonchlorinated. Any other container shall be made of materials containing less than 0.5 percent chlorine by weight as demonstrated by the manufacturer's data sheet.

* * *

[See Prior Text in B.Crematory - K]

1. All crematories with a design charge rate greater than 500 pounds per hour shall conduct emissions testing within 180 days of initial start-up to verify compliance with Subsections E.1-2 and F.1 of this Section using the following test methods:

- a. LAC 33:III.6015 (Method 5—Determination of Particulate Emissions from Stationary Sources);
- b. 40 CFR 60 (Method 10—Determination of Carbon Monoxide Emissions from Stationary Sources);
- c. LAC 33:III.6047 (Method 9—Visual Determination of the Opacity of Emissions from Stationary Sources); and
- d. other tests which may be added at pretest meetings.

2. The owner/operator shall provide the department at least 30 days prior notice of any emission test to afford the department the opportunity to conduct a pretest conference and to have an observer present. The department has the authority to invalidate any testing where such notice is not provided.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1107 (October 1994), amended LR 22:

A public hearing will be held on August 29, 1996, 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 please 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 AQ142. Such comments should be submitted no later than September 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX (504) 765-0486.

Gus Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Crematories (AQ142)**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed changes will result in a negligible reduction in the cost to the state due to the slightly reduced amount of paperwork which will be required.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no change in revenue collections due to the proposed changes.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Cost savings to directly affected persons are estimated to range from \$500 up to \$4,000 per year per facility.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Effects on competition and employment within the industry will be negligible. The proposed changes will affect the entire industry equally and will result in reduced costs.

Gustave Von Bodungen
Assistant Secretary
9607#062

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Fugitive Emissions (LAC 33:III.2121 and 2122) (AQ138)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air Quality Division Regulations, LAC 33:III.2121 and 2122 (AQ138).

This rule changes the reporting frequency from quarterly to semi-annually, to be more consistent with federal regulations. The applicable parishes for LAC 33:III.2122 are named so that parishes currently subject to the rule will not be exempted when their attainment status changes. This rule changes the requirement for a component which appears to be leaking on the basis of sight, sound, or smell. Instead of being repaired immediately, the component may be monitored first. If it is emitting below the leak limit, the component need not be repaired. Other changes to the regulation provide consistency and clarity.

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.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 21. Control of Emission of Organic
Compounds**

§2121. Fugitive Emission Control

* * *

[See Prior Text in A-B]

1. No component shall be allowed to leak organic compounds exceeding 10,000 parts per million by volume (ppmv), as defined in LAC 33:III.111, when tested by Method 21 "Determination of Volatile Organic Compound Leaks" in the Division's Source Test Manual (LAC 33:III.6077). Any regulated component leaking in excess of 10,000 ppmv must be repaired according to Subsection B.3 of this Section. This includes flange and connection leaks found per Subsection C.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and other regulated component found leaking.

* * *

[See Prior Text in B.2-C.3.a]

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. This includes flanges and connectors, pump and compressor seals observed during the weekly visual inspections, and other regulated components that appear to be leaking. In lieu of monitoring, the operator may elect to

implement actions as specified in Subsection B of this Section.

* * *

[See Prior Text in C.4-E.3]

F. Reporting Requirements. The operator of the affected facility shall submit a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

1. a listing of all leaks that were identified, but not repaired, within the 15-day limit;
2. a demonstration of achieving a good performance level, if applicable;
3. the name of the unit where the leaking component is located and the date of last unit shutdown;
4. the name of the leaking component;
5. the stream identification at the leak;
6. the date the leak was located;
7. the date maintenance was attempted;
8. the date the leak will be repaired;
9. the reason repairs failed or were postponed;
10. the list of items awaiting turnaround for repair;
11. the number of items checked versus the number found leaking; and
12. the operator shall include in this report a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

* * *

[See Prior Text in G-G.Liquid Service]

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:959 (November 1990), LR 17:654 (July 1991), LR 21:1330 (December 1995), LR 22:

§2122. Fugitive Emission Control for Specified Parishes

* * *

[See Prior Text in A-A.4]

5. This Section is applicable to sources in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge.

* * *

[See Prior Text in A.6-A.6.d]

B. Definitions. Terms in this Section are used as defined in LAC 33:III.111 with the exception of those terms specifically defined below as follows:

* * *

[See Prior Text]

Inaccessible Valve—a valve that cannot be monitored without elevating the monitoring personnel more than two meters above a support surface.

* * *

[See Prior Text in B.In Vacuum Service-C.1]

a. No component in petroleum refineries, SOCOMI, MTBE, and polymer manufacturing industry shall be allowed to leak volatile organic compounds exceeding an instrument

reading of 1,000 ppmv or greater for valves, connectors, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by LAC 33:III.6077 (Method 21).

b. No component in natural gas processing plants shall be allowed to leak volatile organic compounds exceeding an instrument reading of 2,500 ppmv for valves, connectors, pressure relief devices, and process drains; 5,000 ppmv for pumps and compressors; or 10,000 ppmv for agitators, as outlined in Subsection D of this Section, when tested by LAC 33:III.6077 (Method 21).

c. Any regulated component leaking in excess of the applicable limits given in this Subsection must be repaired according to Subsection C.3 of this Section. This includes flange and connection leaks found per Subsection D.3.b of this Section, pump and compressor seal leaks found during the weekly visual inspections, and any other regulated component found leaking.

* * *

[See Prior Text in C.2-D.1]

a. Monitor process drains with a leak detection device one time per year (annually).

* * *

[See Prior Text in D.1.b-D.1.c]

d. Inspect weekly, by visual, audible, and olfactory means, all flanges.

* * *

[See Prior Text in D.1.e-D.3.a]

b. Monitor immediately with a leak detection device any component that appears to be leaking on the basis of sight, smell, or sound. This includes flanges and connectors, pump and compressor seals observed during the weekly visual inspections, and other regulated components that appear to be leaking. In lieu of monitoring, the operator may elect to implement actions as specified in Subsection C of this Section.

* * *

[See Prior Text in D.3.c]

d. Unsafe-to-monitor valves shall be monitored when conditions would allow these valves to be monitored safely (e.g., during shutdown).

* * *

[See Prior Text in D.4-D.4.j]

k. components that have been placed on a shutdown list for repairs are exempt from further monitoring until a repair has been attempted; and

l. check valves.

* * *

[See Prior Text in D.5-F.3]

G. Reporting Requirements. The operator of the affected facility shall submit a report semiannually containing the information below for each calendar quarter during the reporting period. The reports are due by the last day of the month (January and July) following the monitoring period or by a date approved by the department. The reports shall include the following information for each quarter of the reporting period:

1. a listing of all leaks that were identified, but not repaired, within the 15-day limit;

2. a demonstration of achieving a good performance level, if applicable;
3. the name of the unit where the leaking component is located and the date of last unit shutdown;
4. the name of the leaking component;
5. the stream identification at the leak;
6. the date the leak was located;
7. the date maintenance was attempted;
8. the date the leak will be repaired if the component is awaiting a shutdown;
9. the reason repairs failed or were postponed;
10. the list of items awaiting turnaround for repair;
11. the number of items checked versus the number found leaking;
12. the percent of components leaking for the test period;
13. the total percent of leakers; and
14. a signed statement attesting to the fact that all other monitoring has been performed as required by the regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1102 (October 1994), repromulgated LR 20:1279 (November 1994), amended LR 22:

A public hearing will be held on August 29, 1996, 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 please 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 AQ138. Such comments should be submitted no later than September 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX (504) 765-0486.

Gustave Von Bodungen
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Fugitive Emissions (AQ138)**

- 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 for this proposal.
- 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 rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Regulated facilities will receive the benefit of reporting semi-annually rather than quarterly. They will also receive the

benefit that leaks which are detected by sight, sound, or smell need not be repaired if the leak is demonstrated to be below the leak threshold limit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This proposal will not have any known effect on competition or employment.

Gus Von Bodungen
Assistant Secretary
9607#061

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous
Waste Hazardous Waste Division**

EPA Documents
(LAC 33:V.Chapters 2, 5, 11, 15, 17,
19, 22, 25, 30, 44, 45, and 49)(HW053)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.Chapters 1, 3, 5, 11, 15, 17, 19, 22, 25, 30, 31, 40, 43, and 49 (HW053).

This proposed rule adopts EPA guidance documents by reference, adopts 40 CFR 266.Appendices relating to boilers and industrial furnaces by reference, and refers to the EPA publication SW-846 for TCLP, Chemical Analysis Test Methods, Method of Analysis for Chlorinated Dibenzo-p-dioxins and Dibenzofurans, and Extraction Toxicity Test.

These revisions are being made to maintain authorization from the Environmental Protection Agency to manage the Hazardous Waste Program. These revisions will also provide consistency between the state regulations and the federal regulations.

This proposed rule is identical to a federal law or regulation which is applicable in Louisiana, therefore, no fiscal or economic impact will result from the proposed rule. The rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

**Title 33
ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental
Quality—Hazardous Waste**

**Chapter 1. General Provisions and Definitions
§105. Program Scope**

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste," appear in LAC

33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-1.2.b]

c. comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference at LAC 33:V.110;

* * *

[See Prior Text in 1.2.d-M.3.a]

i. does not contain the constituent or constituents (as defined in LAC 33:V.4901.G.Table 6) that caused the administrative authority to list the waste, using the appropriate test methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

* * *

[See Prior Text in M.3.a.ii-10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

§109. Definitions

For all purposes of these rules and regulations, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

* * *

[See Prior Text]

Sorbent—a material that is used to soak up free liquids by either adsorption or absorption, or both. Sorb means to either adsorb or absorb, or both.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:378 (May 1989), LR 15:737 (September 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 16:614 (July 1990), LR 16:683 (August 1990), LR 17:362 (April 1991), LR 17:478 (May 1991), LR 18:723 (July 1992), LR 18:1375 (December 1992), repromulgated LR 19:626 (May 1993), amended LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

§110. References

A. When used in LAC 33:V the following publications are incorporated by reference:

1. "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

2. "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80. D-93-80 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

3. "ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography," ASTM Standard D 1946-82, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

4. "ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High- Precision Method)," ASTM Standard D 2382-83, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

5. "ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," ASTM Standard E 169-87, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

6. "ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis," ASTM Standard E 168-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

7. "ASTM Standard Practice for Packed Column Gas Chromatography," ASTM Standard E 260-85, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

8. "ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," ASTM Standard D 2267- 88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103;

9. "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161;

10. "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210;

11. "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 [Third Edition (November, 1986), as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), and IIB (January, 1995)]. The Third Edition of SW-846 and Updates I, II, IIA, and IIB (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460;

12. "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA

Publication Number EPA-450/R-92-019, Environmental Protection Agency, Research Triangle, Park, NC;

13. "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E 926-88, Test Method C—Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103;

14. API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, DC 20005; and

15. "ASTM Standard Test Method for Vapor Pressure—Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103.

0010	Modified Method 5 Sampling Train
0020	Source Assessment Sampling System (SASS)
0030	Volatile Organic Sampling Train
1320	Multiple Extraction Procedure
1330	Extraction Procedure for Oily Wastes
3611	Alumina Column Cleanup and Separation of Petroleum Wastes
5040	Protocol for Analysis of Sorbent Cartridges from Volatile Organic Sampling Train
6010	Inductively Coupled Plasma Atomic Emission Spectroscopy
7090	Beryllium (AA, Direct Aspiration)
7091	Beryllium (AA, Furnace Technique)
7198	Chromium, Hexavalent (Differential Pulse Polarography)
7210	Copper (AA, Direct Aspiration)
7211	Copper (AA, Furnace Technique)
7380	Iron (AA, Direct Aspiration)
7381	Iron (AA, Furnace Technique)
7460	Manganese (AA, Direct Aspiration)
7461	Manganese (AA, Furnace Technique)
7550	Osmium (AA, Direct Aspiration)
7770	Sodium (AA, Furnace Technique)
7840	Thallium (AA, Direct Aspiration)
7841	Thallium (AA, Furnace Technique)
7910	Vanadium (AA, Direct Aspiration)
7911	Vanadium (AA, Furnace Technique)
7950	Zinc (AA, Direct Aspiration)
7951	Zinc (AA, Furnace Technique)
9022	Total Organic Halides (TOX) by Neutron Activation Analysis

9035	Sulfate (Colorimetric, Automated, Chloranilate)
9036	Sulfate (Colorimetric, Automated, Methylthymol Blue, AA II)
9038	Sulfate (Turbidimetric)
9060	Total Organic Carbon
9065	Phenolics (Spectrophotometric, Manual 4-AAP with Distillation)
9066*	Phenolics (Colorimetric, Automated, 4-AAP with Distillation)
9067	Phenolics (Spectrophotometric, MBTH with Distillation)
9070	Total Recoverable Oil and Grease (Gravimetric, Separatory Funnel Extraction)
9071	Oil and Grease Extraction Method for Sludge Samples
9080	Cation-Exchange Capacity of Soils (Ammonium Acetate)
9081	Cation-Exchange Capacity of Soils (Sodium Acetate)
9100	Saturated Hydraulic Conductivity, Saturated Leachate Conductivity, and Intrinsic Permeability
9131	Total Coliform: Multiple Tube Fermentation Technique
9132	Total Coliform: Membrane Filter Technique
9200	Nitrate
9250	Chloride (Colorimetric, Automated Ferricyanide AAI)
9251	Chloride (Colorimetric, Automated Ferricyanide AAI)
9252	Chloride (Titrimetric, Mercuric Nitrate)
9310	Gross Alpha and Gross Beta
9315	Alpha-Emitting Radium Isotopes
9320	Radium-228

* When Method 9066 is used it must be preceded by the manual distillation specified in procedure 7.1 of Method 9065. Just prior to distillation in Method 9065, adjust the sulfuric acid-preserved sample to pH 4 with 1 + 9 NaOH. After the manual distillation is completed, the autoanalyzer manifold is simplified by connecting the resample line directly to the sampler.

B. The references listed in Subsection A of this Section are also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. These materials are incorporated as they exist on the date that this rule is promulgated and a notice of any change in these materials will be published in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:

Chapter 3. General Conditions for Treatment, Storage, and Disposal Facility Permits

§322. Classification of Permit Modifications

The following is a listing of classifications of permit modifications made at the request of the permittee.

Modifications **Class**
* * *

[See Prior Text in A-K.18]

L. Incinerators, Boilers, and Industrial Furnaces

1. Changes to increase by more than 25 percent any of the following limits authorized in the permit: a thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

2. Changes to increase by up to 25 percent any of the following limits authorized in the permit: a thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

2

3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl₂, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not be likely to affect the capability of the unit to meet the regulatory performance standards but that would change the operating conditions or monitoring requirements specified in the permit. The administrative authority may require a new trial burn to demonstrate compliance with the regulatory performance standards.

2

5. Operating requirements:

a. modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, or oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

* * *

[See Prior Text in L.5.b-c]

6. Burning of different wastes:

a. if the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The administrative authority will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.

3

b. if the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.

2

Note: See LAC 33:V.321.C.7 for modification procedures to be used for the management of newly listed or identified wastes.

* * *

[See Prior Text in L.7-7.a]

b. authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the administrative authority.

1¹

* * *

[See Prior Text in L.7.c-d]

8. Substitution of an alternate type of nonhazardous waste fuel that is not specified in the permit.

2

* * *

[See Prior Text in M-N.2]

¹ Class 1 modifications requiring prior administrative authority approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:433 (August 1987), LR 16:614 (July 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

Chapter 5. Permit Application Contents
Subchapter E. Specific Information Requirements
§529. Specific Part II Information Requirements for Incinerators

Except as LAC 33:V.Chapter 31 provides otherwise, owners and operators of facilities that incinerate hazardous waste must fulfill the requirements of Subsection A, B, or C of this Section.

* * *

[See Prior Text in A-C.1.b]

c. an identification of any hazardous organic constituents listed in Table 1, LAC 33:V.Chapter 31, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Table 1, LAC 33:V.Chapter 31, which would reasonably not be expected to be found in the waste; the constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or their equivalent.

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

* * *

[See Prior Text in C.1.e-D.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:280 (April 1984), LR 22:

§530. Specific Part II Information Requirements for Process Vents

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have process vents to which LAC 33:V.Chapter 17, Subchapter A applies must provide the following additional information:

* * *

[See Prior Text in A-D.2]

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.a;

* * *

[See Prior Text in D.4-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of

Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:

§535. Specific Part II Information Requirements for Boilers and Industrial Furnaces Burning Hazardous Waste for Energy or Material Recovery and not for Destruction

* * *

[See Prior Text in A-a.2.b.iv]

v. documentation that the maximum annual average ground level concentration of each constituent identified in Subsection A.2.b.ii of this Section quantified in conformance with Subsection A.2.b.iv of this Section does not exceed the allowable ambient level established in 40 CFR 266, appendices IV or V, as adopted and amended at LAC 33:V.Chapter 30, Appendices D and E. The acceptable ambient concentration for emitted constituents for which a specific Reference Air Concentration has not been established in 40 CFR 266, Appendix IV, as adopted and amended at LAC 33:V.Chapter 30, Appendix D or Risk-Specific Dose has not been established in 40 CFR 266, Appendix V, as adopted at LAC 33:V.Chapter 30, Appendix E, is 0.1 micrograms per cubic meter, as noted in the footnote to 40 CFR 266, Appendix IV, as adopted and amended at LAC 33:V.Chapter 30, Appendix D.

* * *

[See Prior Text in A.3-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq..

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:

§536. Specific Part II Information Requirements for Equipment

Except as otherwise provided in LAC 33:V.1501, owners and operators of facilities that have equipment to which LAC 33:V.Chapter 17, Subchapter B applies must provide the following additional information.

* * *

[See Prior Text in A-E.2]

3. a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in LAC 33:V.1713.B.4.c;

* * *

[See Prior Text in E.4-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:1256 (November 1992), LR 22:

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)

[See Prior Text in A-B.2.b.ii]

(a). an identification of any hazardous organic constituents listed in LAC 33:V.Chapter 31. Table 1, that are present in the feed stream, except that the applicant need not analyze for constituents listed in Table 1 that would reasonably not be expected to be found in the hazardous waste. The constituents excluded from analysis must be identified and the basis for this exclusion explained. The waste analysis must be conducted in accordance with analytical techniques specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method;

(b). an approximate quantification of the hazardous constituents identified in the hazardous waste, within the precision produced by the analytical methods specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method;

[See Prior Text in B.2.b.ii.(c)-3.b]

4. Final Permit. For the final period of operation, the administrative authority will develop operating requirements in conformance with LAC 33:V.3005.E that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of LAC 33:V.3009-3015. Based on the trial burn results, the administrative authority will modify the permit as necessary to ensure compliance with the performance standards of LAC 33:V.3009-3015. The permit modification shall proceed according to LAC 33:V.323.

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:

Chapter 11. Generators

§1103. Hazardous Waste Determination

A person who generates a solid waste, as defined in LAC 33:V.109, must determine if that waste is a hazard.

[See Prior Text in A-B]

1. testing the waste according to the methods set forth in the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or according to an equivalent method approved by the administrative authority; or

[See Prior Text in B.2-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 17:658 (July 1991), LR 22:

Chapter 15. Treatment, Storage, and Disposal Facilities

§1519. General Waste Analysis

[See Prior Text in A-B.1]

2. the test methods as specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or an equivalent method approved by the administrative authority, which will be used to test for these parameters; and

[See Prior Text in B.3-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 20:1109 (October 1994), LR 21:266 (March 1995), LR 21:1334 (December 1995), LR 22:

Chapter 17. Air Emission Standards

Subchapter A. Process Vents

§1711. Test Methods and Procedures

[See Prior Text in A-D.1.b]

c. Each sample shall be analyzed, and the total organic concentration of the sample shall be computed using Method 9060 or 8240 of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in D.1.d-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:

§1713. Recordkeeping Requirements

[See Prior Text in A-B.4.b]

c. if engineering calculations are used, a design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions," as incorporated by reference at LAC 33:V.110, or other engineering texts acceptable to the administrative authority that present basic control device design information. Documentation provided by the control device manufacturer or vendor that describes the control device design in accordance with LAC 33:V.1713.B.4.c.i-vii may be used to comply with this requirement. The design analysis shall address the vent stream characteristics and control device operation parameters as specified below;

[See Prior Text in B.4.c.i-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 22:

Subchapter B. Equipment Leaks

§1741. Test Methods and Procedures

[See Prior Text in A-D]

1. methods described in ASTM Methods D 2267-88, E 169-87, E 168-88, E 260-85, as incorporated by reference at LAC 33:V.110;

2. method 9060 or 8240 of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110; or

[See Prior Text in D.3-G]

H. To determine whether pumps or valves are in light liquid service, the vapor pressures of constituents may be obtained from standard reference texts or may be determined by ASTM D-2879-86, as incorporated by reference at LAC 33:V.110.

[See Prior Text in I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 17:658 (July 1991), amended LR 20:1000 (September 1994), LR 22:

Chapter 19. Tanks

§1901. Applicability

The requirements of this Chapter apply to owners and operators of facilities that use tank systems for storing or treating hazardous waste except as otherwise provided in Subsections A and B of this Section or LAC 33:V.105.D.

A. Tank systems that are used to store or treat hazardous waste that contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.1907. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test method must be used: EPA Method 9095 (Paint Filter Liquids) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in B-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:

§1917. Special Requirements for Ignitable or Reactive Wastes

[See Prior Text in A-A.3]

B. The owner or operator of a facility where ignitable or reactive waste is stored or treated in a tank must comply with

the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981), as incorporated by reference at LAC 33:V.110.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 13:651 (November 1987), LR 22:

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2213. Waste-specific Prohibitions - California List Wastes

[See Prior Text in A-E]

F. To determine whether or not a waste is a liquid under Subsections A and C of this Section, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication Number SW-846, as incorporated by reference at LAC 33:V.110.

[See Prior Text in G-G.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 22:22 (January 1996), LR 22:

§2223. Applicability of Treatment Standards

[See Prior Text in A-A.3]

B. For wastewaters, compliance with concentration level standards is based on maximums for any one day, except for D004-D011 wastes for which the previously promulgated treatment standards based on grab samples remain in effect. For all nonwastewaters, compliance with concentration level standards is based on grab sampling. For wastes covered by the waste extract standards, the Test Method 1311, the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, must be used to measure compliance. An exception is made for D004 and D008, for which either of two test methods may be used: Method 1311 or Method 1310, the Extraction Procedure Toxicity Test. For wastes covered by a technology standard, the wastes may be land disposed after being treated using that specified technology or an equivalent treatment technology approved by the administrative authority under the procedures set forth in LAC 33:V.2227.

[See Prior Text in C-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR

16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:

§2225. Treatment Standards Expressed as Concentrations in Waste Extract

A. LAC 33:V.Chapter 22.Table 2 identifies the prohibited wastes and the concentrations of their associated hazardous constituents that may not be exceeded in the extract of a waste or waste treatment residual extracted according to the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, for the allowable land disposal of such wastes.

* * *

[See Prior Text in B]

C. The treatment standards for F001-F005 nonwastewater constituents carbon disulfide, cyclohexanone, and/or methanol apply to wastes that contain only one, two, or three of these constituents. Compliance is measured for these constituents in the waste extract from test Method 1311, the Toxicity Characteristic Leaching Procedure as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. If the waste contains any of these three constituents along with any of the other 25 constituents found in F001-F005, then compliance with treatment standards for carbon disulfide, cyclohexanone, and/or methanol are not required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 21:266 (March 1995), LR 22:22 (January 1996), LR 22:

§2245. Generators' Waste Analysis, Recordkeeping, and Notice Requirements

A. Except as specified in LAC 33:V.2213, if a generator's waste is listed in LAC 33:V.Chapter 49, the generator must test his or her waste or test an extract using Method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or use knowledge of the waste to determine if the waste is prohibited from land disposal under this Chapter. Except as specified in LAC 33:V.2213, if a generator's waste exhibits one or more of the characteristics set out at LAC 33:V.4903, the generator must test an extract using Method 1311, the Toxicity Characteristic Leaching Procedure, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or use knowledge of the waste, to determine if the waste is prohibited from land disposal under this Chapter. If the generator determines that his waste exhibits the characteristic of ignitability (D001) (and is not in the High TOC Ignitable Liquids Subcategory or is not treated by CMBST or RORGS of Table 3 of this Chapter), or the characteristic of corrosivity (D002), and the waste is prohibited under LAC 33:V.2221, and/or the characteristic of organic toxicity (D012-D043), and

is prohibited under LAC 33:V.2221.E, the generator must determine the underlying hazardous constituents, as defined in LAC 33:V.2203, in the D001, D002, or D012-D043 waste.

* * *

[See Prior Text in B-E.3]

F. If a generator determines whether the waste is prohibited solely on the basis of his or her knowledge of the waste, all supporting data used to make this determination must be retained on-site in the generator's files. If a generator determines whether the waste is prohibited on the basis of tests of this waste or an extract developed using the Toxicity Characteristic Leaching Procedure and test methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, all waste analysis data must be retained on-site in the generator's files.

* * *

[See Prior Text in G-K]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:

§2247. Owners or Operators of Treatment or Disposal Facilities: Testing, Waste Minimization, Recordkeeping, and Notice Requirements

* * *

[See Prior Text in A]

1. For wastes with treatment standards expressed as concentrations in the waste extract (LAC 33:V.2225), the owner or operator of the treatment facility must test the treatment residues, or an extract of such residues developed using the Toxicity Characteristic Leaching Procedure and the test methods in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, to assure that the treatment residues or extract meet the applicable treatment standards.

* * *

[See Prior Text in A.2-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:

Subchapter B. Hazardous Waste Injection Restrictions
§2271. Exemptions to Allow Land Disposal of a Prohibited Waste by Deep Well Injections

* * *

[See Prior Text in A-Table 7, footnote 3]

⁴ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, with a sample

size of 10 grams and a distillation time of one hour and 25 minutes.

* * *

[See Prior Text in footnote 5-Table 11,
Certification Statement: G]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:22 (January 1996), amended LR 22:

Chapter 25. Landfills

§2515. Special Requirements for Bulk and Containerized Liquids

* * *

[See Prior Text in A-C.4]

D. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in E-F.2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, in LR 10:200 (March 1984), amended LR 16:220 (March 1990), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

* * *

[See Prior Text in A-C]

1. To be exempt from LAC 33:V.3005-3023, an owner or operator of a metal recovery furnace or mercury recovery furnace must comply with the following requirements (except that an owner or operator of a lead or a nickel-chromium recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must comply with the requirements of Subsection C.3 of this Section):

* * *

[See Prior Text in C.1.a-a.iv]

b. sample and analyze the hazardous waste and other feedstocks as necessary to comply with the requirements of this Section under procedures specified by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method; and

* * *

[See Prior Text in C.1.c-2.b]

3. To be exempt from LAC 33:V.3005-3023, an owner or operator of a lead or nickel-chromium or mercury recovery furnace or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing must provide a one-time written notice to the administrative

authority identifying each hazardous waste burned, specifying whether the owner or operator claims an exemption for each waste under Subsection C.1 or C.3 of this Section. The owner or operator must comply with the requirements of Subsection C.1 of this Section for those wastes claimed to be exempt under that section and must comply with the requirements below for those wastes claimed to be exempt under this Section.

a. The hazardous wastes listed in 40 CFR 266, appendices XI, XII, and XIII, as adopted and amended at Appendices K, L, and M of this Chapter, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of Subsection C.1 of this Section, provided that:

i. a waste listed in 40 CFR 266, Appendix IX, as adopted at Appendix I of this Chapter, must contain recoverable levels of lead, a waste listed in 40 CFR 266, Appendix XII, as adopted and amended at Appendix L of this Chapter, must contain recoverable levels of nickel or chromium, a waste listed in 40 CFR 266, Appendix XIII, as adopted and amended at Appendix M of this Chapter, must contain recoverable levels of mercury and contain less than 500 ppm of LAC 33:V.3105.Table 1 organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal;

* * *

[See Prior Text in C.3.a.ii-iv]

b. the administrative authority may decide on a case-by-case basis that the toxic organic constituents in a material listed in 40 CFR 266, Appendix XI, XII, or XIII, as adopted and amended at Appendices K, L, and M of this Chapter, that contains a total concentration of more than 500 ppm toxic organic compounds listed in LAC 33:V.3105.Table 1 may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this Chapter. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject to the requirements of this Chapter when burning that material. In making the hazard determination, the administrative authority will consider the following factors:

* * *

[See Prior Text in C.3.b.i-ii]

iii. whether the acceptable ambient levels established in 40 CFR 266, Appendix IV or V, as adopted and amended at Appendices D and E of this Chapter, may be exceeded for any toxic organic compound that may be emitted based on dispersion modeling to predict the maximum annual average off-site ground level concentration.

* * *

[See Prior Text in D-F.1.a.iii]

b. sample and analyze the hazardous waste as necessary to document that the waste is burned for recovery of economically significant amounts of precious metal using procedures as described in by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or alternative methods that meet or exceed the SW-846 method performance capabilities. If SW-846 does not prescribe a

method for a particular determination, the owner or operator shall use the best available method; and

* * *

[See Prior Text in F.1.c]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142, which has been repealed]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

§3005. Permit Standards for Burners

* * *

[See Prior Text in A-B]

1. The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in LAC 33:V.Chapter 31, Table 1, that may reasonably be expected to be in the waste. Such constituents must be identified and quantified at levels detectable by analytical procedures prescribed by "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. Alternative methods that meet or exceed the method performance capabilities of SW-846 methods may be used. If SW-846 does not prescribe a method for a particular determination, the owner or operator shall use the best available method. The LAC 33:V.Chapter 31, Table 1 constituents excluded from this analysis must be identified and the basis for this exclusion explained. This analysis will be used to provide all information required by this Section and LAC 33:V.535 and 537 and to enable the permit writer to prescribe such permit conditions as are necessary to protect human health and the environment. Such analysis must be included as a portion of Part II of the permit application, or, for facilities operating under the interim status standards of LAC 33:V.3007, as a portion of the trial burn plan that may be submitted before Part II of the application under the provisions of LAC 33:V.537.D, as well as any other analysis required by the permit authority in preparing the permit. Owners or operators of boilers and industrial furnaces not operating under the interim status standards of LAC 33:V.3007 must provide the information required by LAC 33:V.535 and 537 to the greatest extent possible.

* * *

[See Prior Text in B.2-I]

[Note: Parts of this Section were previously promulgated in LAC 33:V.4142, which has been repealed.]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

§3007. Interim Status Standards for Burners

* * *

[See Prior Text in A-B.2.b.i]

ii. the estimated partitioning factor to the combustion gas for the materials identified in Subsection B.2.a of this Section and the basis for the estimate and an estimate of the partitioning to HCl and Cl₂ of total chloride and chlorine in feed materials. To estimate the partitioning

factor, the owner or operator must use either best engineering judgment or the procedures specified in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

iii. for industrial furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions standards under Subsection C.3.b.i of this Section, the estimated enrichment factor for each metal. To estimate the enrichment factor, the owner or operator must use either best engineering judgment or the procedures specified in "Alternative Methodology for Implementing Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in B.2.b.iv-d.i]

ii. to estimate APCS removal efficiency, the owner or operator must use either best engineering judgment or the procedures prescribed in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in B.2.d.iii-3.e]

4. Operating Requirements for Furnaces that Recycle PM. Owners and operators of furnaces that recycle collected particulate matter (PM) back into the furnace and that will certify compliance with the metals emissions controls under Subsection C.3.b.i of this Section must comply with the special operating requirements provided in "Alternative Methodology for Implementing Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in B.5-6.j]

7. Monitoring Other Operating Parameters. When the monitoring systems for the operating parameters listed in Subsection C.1.e-m of this Section are installed and operating in conformance with vendor specifications or (for CO, HC, and oxygen) specifications provided by 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, as appropriate, the parameters shall be continuously monitored and records shall be maintained in the operating record.

* * *

[See Prior Text in B.8-C.3.b]

i. the special testing requirements prescribed in "Alternative Method for Implementing Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter; or

* * *

[See Prior Text in C.3.b.ii-C.4.e]

5. Special Requirements for HC Monitoring Systems. When an owner or operator is required to comply with the hydrocarbon (HC) controls provided by Subsection A.5.a.iv of this Section or LAC 33:V.3009.C, a conditioned gas monitoring system may be used in conformance with specifications provided in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, provided that the owner or operator submits a certification of compliance without using extensions of time provided by Subsection C.7 of this Section.

* * *

[See Prior Text in C.6]

a. (when complying with the requirements of Subsection C.7 of this Section), comply with the operating requirements prescribed in "Alternative Method to Implement the Metals Controls" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter; and

* * *

[See Prior Text in C.6.b-J.1.a]

b. carbon monoxide (CO), oxygen, and if applicable, hydrocarbons (HC) must be monitored on a continuous basis at a common point in the boiler or industrial furnace downstream of the combustion zone and prior to release of stack gases to the atmosphere in accordance with the operating limits specified in the certification of compliance. CO, HC and oxygen monitors must be installed, operated, and maintained in accordance with methods specified in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in J.1.c-Note]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

§3009. Standards to Control Organic Emissions

A boiler or industrial furnace burning hazardous waste must be designed, constructed, and maintained so that, when operated in accordance with operating requirements specified under LAC 33:V.3005.E, it will meet the following standards:

* * *

[See Prior Text in A-A.2]

3. Dioxin-listed Waste. A boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027 must achieve a DRE of 99.9999 percent for each POHC designated (under Subsection A.1.b of this Section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. The DRE is determined for each POHC from the equation in Subsection A.1 of this Section. In addition, the owner or operator of the boiler or industrial furnace must notify the administrative authority of his intent to burn EPA Hazardous Waste Numbers F020, F021, F022, F023, F026, or F027.

* * *

[See Prior Text in A.4-B.1]

2. CO and oxygen shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Carbon Monoxide and Oxygen for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in B.3-C.2]

3. HC shall be continuously monitored in conformance with "Performance Specifications for Continuous Emission Monitoring of Hydrocarbons for Incinerators, Boilers, and Industrial Furnaces Burning Hazardous Waste" in 40 CFR

266, Appendix IX, as adopted and amended at Appendix I of this Chapter. CO and oxygen shall be continuously monitored in conformance with Subsection B.2 of this Section.

* * *

[See Prior Text in C.4-E]

1. during the trial burn (for new facilities or an interim status facility applying for a permit) or compliance test (for interim status facilities), determine emission rates of the tetra-octa congeners of chlorinated dibenzo-p-dioxins and dibenzofurans (CDDs/CDFs) using Method 23, "Determination of Polychlorinated Dibenzo-p-Dioxins (PCDDs) and Polychlorinated Dibenzofurans (PCDFs) from Stationary Sources," in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

2. estimate the 2,3,7,8-TCDD toxicity equivalence of the tetra-octa CDD/CDF congeners using "Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter. Multiply the emission rates of CDD/CDF congeners with a toxicity equivalence greater than zero (see the procedure) by the calculated toxicity equivalence factor to estimate the equivalent emission rate of 2,3,7,8-TCDD;

3. conduct dispersion modeling using methods recommended in 40 CFR 51, Appendix W ("Guideline on Air Quality Models (Revised)" and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure" provided in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, or in "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," as incorporated by reference at LAC 33:V.110, to predict the maximum annual average off-site ground level concentration of 2,3,7,8-TCDD equivalents determined under Subsection E.2 of this Section. The maximum annual average concentration must be used when a person resides on-site; and

4. the ratio of the predicted maximum annual average ground level concentration of 2,3,7,8-TCDD equivalents to the risk-specific dose for 2,3,7,8-TCDD provided in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, (2.2 X 10⁻⁷) shall not exceed 1.0.

F. Reserved

* * *

[See Prior Text in G-1]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

§3011. Standards to Control Particulate Matter

A. A boiler or industrial furnace burning hazardous waste may not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) after correction to a stack gas concentration of seven percent oxygen, using procedures prescribed in 40 CFR 60, Appendix A, Methods 1-5, and 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in B-C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), LR 22:

§3013. Standards to Control Metals Emissions

A. General. The owner or operator must comply with the metals standards provided by Subsections B-F of this Section for each metal listed in Subsection B of this Section that is present in hazardous waste at detectable levels using analytical procedures specified in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

B. Tier I Feed Rate Screening Limits. Feed rate screening limits for metals are specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in Subsection B.7 of this Section.

1. Noncarcinogenic Metals. The feed rates of antimony, barium, lead, mercury, thallium, and silver in all feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks shall not exceed the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter.

* * *

[See Prior Text in B.1.a-2]

a. The feed rates of arsenic, cadmium, beryllium, and chromium in all feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks shall not exceed values derived from the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter. The feed rate of each of these metals is limited to a level such that the sum of the ratios of the actual feed rate to the feed rate screening limit specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^n \frac{AFR_{(i)}}{FRSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AFR = actual feed rate to the device for metal "i"

FRSL = feed rate screening limit provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, for metal "i"

* * *

[See Prior Text in B.2.b-3]

a. the terrain-adjusted effective stack height (TESH) is determined according to the following equation:

$$TESH = Ha + H1 - Tr$$

where:

Ha = actual physical stack height

H1 = plume rise as determined from 40 CFR 266, Appendix

VI, as adopted at Appendix F of this Chapter, as a function of stack flow rate and stack gas exhaust temperature

Tr = terrain rise within five kilometers of the stack

* * *

[See Prior Text in B.3.b-4]

5. Land Use. The screening limits are a function of whether the facility is located in an area where the land use is urban or rural. To determine whether land use in the vicinity of the facility is urban or rural, use procedures provided in 40 CFR 266, appendices IX or X, as adopted and amended at Appendices I or J of this Chapter.

* * *

[See Prior Text in B.6-8]

C. Tier II Emission Rate Screening Limits. Emission rate screening limits are specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities that are not eligible to comply with the screening limits are provided in Subsection B.7 of this Section.

1. Noncarcinogenic Metals. The emission rates of antimony, barium, lead, mercury, thallium, and silver shall not exceed the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter.

2. Carcinogenic Metals. The emission rates of arsenic, cadmium, beryllium, and chromium shall not exceed values derived from the screening limits specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter. The emission rate of each of these metals is limited to a level such that the sum of the ratios of the actual emission rate to the emission rate screening limit specified in 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, shall not exceed 1.0, as provided by the following equation:

$$\sum_{i=1}^n \frac{AER_{(i)}}{ERSL_{(i)}} \leq 1.0$$

where:

n = number of carcinogenic metals

AER = actual emission rate for metal "i"

ERSL = emission rate screening limit provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, for metal "i"

* * *

[See Prior Text in C.3-D.1]

2. Acceptable Ambient Levels. 40 CFR 266, appendices IV and V, as adopted and amended at Appendices D and E of this Chapter, list the acceptable ambient levels for purposes of this rule. Reference air concentrations (RACs) are listed for the noncarcinogenic metals and 10⁻⁵ risk-specific doses (RSDs) are listed for the carcinogenic metals. The RSD for a metal is the acceptable ambient level for that metal provided that only one of the four carcinogenic metals is emitted. If more than one carcinogenic metal is emitted, the acceptable ambient level for the carcinogenic metals is a fraction of the RSD as described in Subsection D.3 of this Section.

* * *

[See Prior Text in D.3-6]

E. Adjusted Tier I Feed Rate Screening Limits. The owner or operator may adjust the feed rate screening limits provided by 40 CFR 266, Appendix I, as adopted at Appendix A of this Chapter, to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit for a metal is determined by back-calculating from the acceptable ambient levels provided by 40 CFR 266, appendices IV and V, as adopted and amended at Appendices D and E of this Chapter, using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit. The feed rate screening limits for carcinogenic metals are implemented as prescribed in Subsection B.2 of this Section.

* * *

[See Prior Text in F-F.2]

a. for each noncarcinogenic metal, by back-calculating from the RAC provided in 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, to determine the allowable emission rate for each metal using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with Subsection H of this Section; and

b. for each carcinogenic metal, by:

i. back-calculating from the RSD provided in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, to determine the allowable emission rate for each metal if that metal were the only carcinogenic metal emitted using the dilution factor for the maximum annual average ground level concentration predicted by dispersion modeling in conformance with Subsection H of this Section; and

* * *

[See Prior Text in F.2.b.ii-G]

1. General. Emission testing for metals shall be conducted using the Multiple Metals Train as described in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

2. Hexavalent Chromium. Emissions of chromium are assumed to be hexavalent chromium unless the owner or operator conducts emissions testing to determine hexavalent chromium emissions using procedures prescribed in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

H. Dispersion Modeling. Dispersion modeling required under this Section shall be conducted according to methods recommended in 40 CFR 51, Appendix W ("Guidelines on Air Quality Models (revised)" (1986) and its supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure" described in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter, or in "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," as incorporated by reference at LAC 33:V.110, to predict the maximum annual average off-site ground level concentration. However, on-site concentrations must be considered when a person resides on-site.

* * *

[See Prior Text in I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

§3015. Standards to Control Hydrogen Chloride (HCl) and Chlorine Gas (Cl₂) Emissions

* * *

[See Prior Text in A-B]

1. Tier I Feed Rate Screening Limits. Feed rate screening limits are specified for total chlorine in 40 CFR 266, Appendix II, as adopted at Appendix B of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The feed rate of total chlorine and chloride, both organic and inorganic, in all feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks shall not exceed the levels specified.

2. Tier II Emission Rate Screening Limits. Emission rate screening limits for HCl and Cl₂ are specified in 40 CFR 266, Appendix III, as adopted at Appendix C of this Chapter, as a function of terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. The stack emission rates of HCl and Cl₂ shall not exceed the levels specified.

* * *

[See Prior Text in B.3-C.1]

2. Acceptable Ambient Levels. 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, lists the reference air concentrations (RACs) for HCl (seven micrograms per cubic meter) and Cl₂ (0.4 micrograms per cubic meter).

* * *

[See Prior Text in C.3-D.2]

E. Adjusted Tier I Feed Rate Screening Limits. The owner or operator may adjust the feed rate screening limit provided by 40 CFR 266, Appendix II, as adopted at Appendix B of this Chapter, to account for site-specific dispersion modeling. Under this approach, the adjusted feed rate screening limit is determined by back-calculating from the acceptable ambient level for Cl₂ provided by 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, using dispersion modeling to determine the maximum allowable emission rate. This emission rate becomes the adjusted Tier I feed rate screening limit.

F. Emissions Testing. Emissions testing for HCl and Cl₂ shall be conducted using the procedures described in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter.

* * *

[See Prior Text in G-H]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

§3019. Low Risk Waste Exemption

* * *

[See Prior Text in A-A.2.d]

i. for the noncarcinogenic compounds listed in 40 CFR 266, Appendix IV, as adopted and amended at Appendix D of this Chapter, the levels established in 40 CFR 266,

Appendix IV, as adopted and amended at Appendix D of this Chapter;

ii. for the carcinogenic compounds listed in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, the sum for all constituents of the ratios of the actual ground level concentration to the level established in 40 CFR 266, Appendix V, as adopted at Appendix E of this Chapter, cannot exceed 1.0; and

iii. for constituents not listed in 40 CFR 266, appendices IV or V, as adopted and amended at Appendices D and E of this Chapter, 0.1 micrograms per cubic meter.

* * *

[See Prior Text in B-B.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

§3023. Standards for Direct Transfer

* * *

[See Prior Text in A-D.1]

2. The use and management requirements of LAC 33:V.Chapter 43.Subpart I, except for LAC 33:V.4417 and 4425 except that, in lieu of the special requirements of LAC 33:V.4427 for ignitable or reactive waste, the owner or operator may comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjacent property line that can be built upon as required in Tables 2-1-2-6 of the National Fire Protection Association's (NFPA) "Flammable and Combustible Liquids Code," (1977 or 1981), as incorporated by reference at LAC 33:V.110. The owner or operator must obtain and keep on file at the facility a written certification by the local fire marshal that the installation meets the subject NFPA codes; and

* * *

[See Prior Text in D.3-E.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

§3025. Regulation of Residues

A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of a hazardous waste under LAC 33:V.105.D unless the device and the owner or operator meet the following requirements:

* * *

[See Prior Text in A-B]

1. Comparison of Waste-derived Residue with Normal Residue. The waste-derived residue must not contain LAC 33:V.4901.G.Table 6 constituents (toxic constituents) that could reasonably be attributable to the hazardous waste at concentrations significantly higher than in residue generated without burning or processing of hazardous waste, using the following procedure. Toxic compounds that could reasonably be attributable to burning or processing the hazardous waste (constituents of concern) include toxic constituents in the

hazardous waste, and the organic compounds listed in 40 CFR 266, Appendix VIII, as adopted at Appendix H of this Chapter, that may be generated as products of incomplete combustion. Sampling and analyses shall be in conformance with procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

a. Normal Residue. Concentrations of toxic constituents of concern in normal residue shall be determined based on analyses of a minimum of 10 samples representing a minimum of 10 days of operation. Composite samples may be used to develop a sample for analysis provided that the compositing period does not exceed 24 hours. The upper tolerance limit (at 95-percent confidence with a 95-percent proportion of the sample distribution) of the concentration in the normal residue shall be considered the statistically-derived concentration in the normal residue. If changes in raw materials or fuels reduce the statistically-derived concentrations of the toxic constituents of concern in the normal residue, the statistically-derived concentrations must be revised or statistically-derived concentrations of toxic constituents in normal residue must be established for a new mode of operation with the new raw material or fuel. To determine the upper tolerance limit in the normal residue, the owner or operator shall use statistical procedures prescribed in "Statistical Methodology for Bevill Residue Determinations" in 40 CFR 266, Appendix IX, as adopted and amended at Appendix I of this Chapter;

* * *

[See Prior Text in B.1.b-2]

a. Nonmetal Constituents. The concentration of each nonmetal toxic constituent of concern (specified in Subsection B of this Section) in the waste-derived residue must not exceed the health-based level specified in 40 CFR 266, Appendix VII, as adopted and amended at Appendix G of this Chapter, or the level of detection (using analytical procedures prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110), whichever is higher. If a health-based limit for a constituent of concern is not listed in 40 CFR 266, Appendix VII, as adopted and amended at Appendix G of this Chapter, then a limit of 0.002 micrograms per kilogram or the level of detection (using analytical procedures prescribed in SW-846), whichever is higher, shall be used. The levels specified in 40 CFR 266, Appendix VII (and the default level of 0.002 micrograms per kilogram or the level of detection for constituents as identified in 40 CFR 266, Appendix VII.Note 1, as adopted and amended at Appendix G of this Chapter) are administratively stayed under the condition, for those constituents specified in Subsection B.1 of this Section, that the owner or operator complies with alternative levels defined as the land disposal restriction limits specified in LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters. In complying with those alternative levels, if an owner or operator is unable to detect a constituent despite documenting use of best good-faith efforts, as defined by applicable agency guidance or standards, the owner or operator is deemed to be in compliance for that constituent. Until new guidance or standards are developed, the owner or

operator may demonstrate such good-faith efforts by achieving a detection limit for the constituent that does not exceed an order of magnitude above the level provided by LAC 33:V.Chapter 22.Table 2 for F039 nonwastewaters. The stay will remain in effect until further administrative action is taken and notice is published in the *Louisiana Register*; and

b. Metal Constituents. The concentration of metals in an extract obtained using the Toxicity Characteristic Leaching Procedure of LAC 33:V.4903 must not exceed the levels specified in 40 CFR 266, Appendix VII, as adopted and amended at Appendix G of this Chapter.

* * *

[See Prior Text in B.2.c-C.2.b]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 22:

Appendices to Chapter 30

Appendix A. Tier I and Tier II Feed Rate and Emissions Screening Limits For Metals

40 CFR 266, Appendix I, as amended by 56 FR 7228 (February 21, 1991) and 56 FR 32690 (July 17, 1991), is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total Chlorine

40 CFR 266, Appendix II, as amended by 56 FR 32690 (July 17, 1991), is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride

40 CFR 266, Appendix III, as amended by 56 FR 32691 (July 17, 1991), is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

40 CFR 266, Appendix IV, as amended by 56 FR 7232 (February 21, 1991) and 56 FR 32691 (July 17, 1991), is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105.Table 1 and Appendix E of this Chapter, respectively.

Appendix E. Risk Specific Doses (10⁻⁵)

40 CFR 266, Appendix V, as amended by 56 FR 7232 (February 21, 1991), is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise (in Meters) Based on Stack Exit Flow and Gas Temperature]

40 CFR 266, Appendix VI, as amended by 56 FR 7233 (February 21, 1991), is hereby incorporated by reference.

Appendix G. Health-based Limits for Exclusion of Waste-derived Residues

40 CFR 266, Appendix VII, as amended by 56 FR 7234 (February 21, 1991), 56 FR 32691 (July 17, 1991), and 58 FR 59603 (November 9, 1993), is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC 33:V.3105.Table 1, 3025.B.1 and B.2.a, and Chapter 22.Table 2, respectively.

Appendix H. Potential PICs for Determination of Exclusion of Waste-derived Residues

40 CFR 266, Appendix VIII, as amended by 56 FR 7235

(February 21, 1991) and 56 FR 32691 (July 17, 1991), is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

40 CFR 266, Appendix IX, as amended by 56 FR 32692 (July 17, 1991), 56 FR 42512,42516 (August 27, 1991), 57 FR 38566 (August 25, 1992) and 57 FR 44999 (September 30, 1992), is hereby incorporated by reference, except that the citations 40 CFR 261, Appendix VIII, 266.103, 266.103(b), 266.103(b)(3), 266.103(c), 266.103(c)(1), 266.103(c)(3)(ii), 266.103(c)(7), 266.103(d), 266.106, 266.112, 266.112(b)(1) and (b)(2)(i), 268.43, and 266.subpart H shall mean LAC 33:V.3105.Table 1, 3007, 3007.B, 3007.B.3, 3007.C, 3007.C.1, 3007.C.3.b, 3007.C.7, 3007.D, 3013, 3025, 3013, 3025, 3025.B.1 and B.2.a, Chapter 22.Table 2, and Chapter 30, respectively. Terms within the incorporated Appendix shall be the terms adopted by reference except that "director," "administrator," "EPA regional office," and "EPA regional office or the appropriate enforcement agency" shall mean "administrative authority." "Environmental Protection Agency" and "EPA" shall mean "administrative authority," except when referring to an EPA method, protocol, file, performance audit sample, handbook, manual, document, program, default value, or default assumption.

Federal statutes and regulations that are cited in 40 CFR 266, Appendix IX that are not specifically adopted by reference shall be used as guidance in interpreting the federal regulations in 40 CFR 266, Appendix IX.

Appendix J. Reserved

Appendix K. Lead-bearing Materials That May Be Processed in Exempt Lead Smelters

40 CFR 266, Appendix XI, as amended by 56 FR 42517 (August 27, 1991), is hereby incorporated by reference.

Appendix L. Nickel or Chromium-bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

40 CFR 266, Appendix XII, as amended by 56 FR 42517 (August 27, 1991), is hereby incorporated by reference, except that the footnote should be deleted.

Appendix M. Mercury-bearing Wastes That May Be Processed in Exempt Mercury Units

40 CFR 266, Appendix XIII, as amended by 59 FR 48041 (September 19, 1994), is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105.Table 1.

Chapter 31. Incinerators

§3115. Incinerator Permits for New or Modified Facilities

* * *

[See Prior Text in A-B.1.b]

c. an identification of any hazardous, organic constituents listed in Table 1 of this Chapter, which are present in the waste to be burned, except that the applicant need not analyze for constituents listed in Table 1 of this Chapter that would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified, and the basis for their exclusion stated. The waste analysis must rely on analytical techniques as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical

Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or other equivalent methods approved by the administrative authority;

d. an approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, or other equivalent methods approved by the administrative authority;

[See Prior Text in B.2-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:

Chapter 40. Used Oil

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials that are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

[See Prior Text in A-B.1.a]

b. Rebuttable Presumption for Used Oil. Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in LAC 33:V.4901. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from EPA Publication SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954, (202) 512-1800 (document number 955-001-00000-1).

[See Prior Text in B.1.b.i-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 22:

§4033. Rebuttable Presumption for Used Oil

[See Prior Text in A-B.2]

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that

the used oil does not contain significant concentrations of halogenated hazardous constituents, which are listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

[See Prior Text in C.1-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 22:

§4047. Rebuttable Presumption for Used Oil

[See Prior Text in A-B.2]

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents, which are listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

[See Prior Text in C.1-2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 22:

§4067. Rebuttable Presumption for Used Oil

[See Prior Text in A-B.3]

C. If the used oil contains greater than or equal to 1,000 ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste, which is listed in LAC 33:V.4901. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents, which are listed in LAC 33:V.3105.Table 1). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-00000-1).

[See Prior Text in C.1-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), LR 22:

Chapter 43. Interim Status
Subchapter E. Groundwater Monitoring
§4371. Sampling and Analysis

* * *

[See Prior Text in A-B.1]

2. The following parameters are to be used as a basis for comparison in the event a groundwater quality assessment is required under LAC 33:V.4373.D:

- a. chloride;
- b. iron;
- c. manganese;
- d. phenols;
- e. sodium;
- f. sulfate;

* * *

[See Prior Text in B.3-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 18:1256 (November 1992), LR 22:

Subchapter I. Tanks

§4431. Applicability

A. The regulations of this Subchapter apply to owners or operators of facilities that use tank systems for storing or treating hazardous waste, except as otherwise provided in this Section and in LAC 33:V.4433 or in 4301 and 105.F.

1. Tank systems that are used to store or treat hazardous waste that contains no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements of LAC 33:V.4437. To demonstrate the absence or presence of free liquids in the stored/treated waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in A.2-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 13:651 (November 1987), LR 16:614 (July 1990), LR 18:1375 (December 1992), LR 22:

Subchapter M. Landfills

§4507. Special Requirements for Liquid Waste

* * *

[See Prior Text in A-C.4]

D. To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095 (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in E-G.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste,

Hazardous Waste Division, LR 10:200 (March 1984), LR 21:266 (March 1995), LR 22:

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * *

[See Prior Text in A-B.3.b.ii.(c)]

(i). rinses must be tested in accordance with Method 8290, as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

(ii). "Not detected" means at or below the lower method calibration limit (MCL) in Method 8290, as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110;

* * *

[See Prior Text in B.3.b.ii.(d)-Table 6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

§4903. Category II Hazardous Wastes

A. Category II hazardous wastes are wastes designated as hazardous based on classical analytical procedures (see "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, for guidance on the procedures). There are four hazardous waste categories for wastes not otherwise characterized: ignitability, corrosivity, reactivity, and toxicity. LAC 33:V.Subpart 1 applies to those materials that exhibit the characteristics of ignitability, corrosivity, reactivity, and/or toxicity.

* * *

[See Prior Text in B]

1. It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has flash point less than 60°C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, as incorporated by reference at LAC 33:V.110, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78, as incorporated by reference at LAC 33:V.110, or as determined by an equivalent test method approved by the administrative authority under procedures set forth in LAC 33:V.105.H and I.

* * *

[See Prior Text in B.2-C]

1. It is aqueous and has a pH less than or equal to two or greater than or equal to 12.5, as determined by a pH meter using Method 9040 described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

2. It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (0.250 inch) per year at a test temperature of 55°C (130°F) as determined by the test method specified in National Association of Corrosion Engineers (NACE) Standard TM-01-69 as standardized in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

* * *

[See Prior Text in D-E]

1. A solid waste exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure, Method 1311 described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110, the extract from a representative sample of the waste contains any of the contaminants listed in Subsection E.2. Table 5 of this Section at the concentration equal to or greater than the respective value given in that table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purposes of this Section.

* * *

[See Prior Text in E.2-F]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 22:

Appendices to Chapter 49

Appendix A. Chemical Analysis Test Methods

Note: Appropriate analytical procedures to determine whether a sample contains a given toxic constituent are specified in Chapter Two, "Choosing the Correct Procedure," found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110. Prior to final sampling and analysis method selection, the individual should consult the specific section or method described in SW-846, for additional guidance on which of the approved methods should be employed for a specific sample analysis situation.

Appendix B. Method 1311

Toxicity Characteristic Leaching Procedure (Tclp)

Note: The TCLP (Method 1311) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

Appendix C. Extraction Procedure (Ep) Toxicity Test Method and Structural Integrity Test (Method 1310)

Note: The EP (Method 1310) is published in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference at LAC 33:V.110.

A public hearing will be held on August 29, 1996, 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 please 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 HW053. Such comments should be submitted no later than August 29, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. The comment period for this rule ends on the same date as the public hearing.

Mike Strong
Assistant Secretary

9607#065

NOTICE OF INTENT

Department of Environmental Quality Office of Solid and Hazardous Waste Hazardous Waste Division

RCRA IV Authorization Federal Package
(LAC 33:V.Chapters 1, 5, 15, 19, 22, 30, 31, 37, 40, 41, 43, 44, 45 and 49)(HW050)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division Regulations, LAC 33:V.Chapters 1, 5, 15, 22, 30, 31, 37, 40, 41, 43, and 49 (HW050).

This proposed rule makes the following changes: 1) references are changed from 40 CFR 266 appendices to 40 CFR 51 to ensure that BIF Air Quality Screening Procedures are consistent, 2) allows BIF residues to meet LDR standards instead of more stringent health-based constituent levels to avoid disposal as a hazardous waste, 3) lists constituents found in wood surface protection wastes, 4) expands exemption for samples used in treatability studies by quantity and toxicity, 5) amends recordkeeping instructions for BIFs, Miscellaneous Units, and TSDs so that the unit of measurement codes and handling codes used by TSDs for on-site records match codes used by facilities on the Part A permit application forms, and 6) excludes from the definition of solid waste oil recovered from petroleum refinery wastewaters and from other sources, both on-site and off-site, if the oil is subsequently inserted (along with normal process streams) into the petroleum refining process prior to crude distillation or catalytic cracking.

These revisions are being made to maintain authorization from the Environmental Protection Agency to manage the Hazardous Waste Program. These revisions will also provide consistency between the state regulations and the federal regulations.

This proposed rule is identical to a federal law or regulation which is applicable in Louisiana, therefore, no fiscal or economic impact will result from the proposed rule. The rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 1. General Provisions and Definitions

§105. Program Scope

These rules and regulations apply to owners and operators of all facilities that generate, transport, treat, store, or dispose of hazardous waste, except as specifically provided otherwise herein. The procedures of these regulations also apply to denial of a permit for the active life of a hazardous waste management facility or TSD unit under LAC 33:V.706. Definitions appropriate to these rules and regulations, including "solid waste" and "hazardous waste", appear in LAC 33:V.109. Those wastes which are excluded from regulation are found in this Section.

* * *

[See Prior Text in A-D.33.a]

b. waste from burning any of the materials in LAC 33:V.4105.B.10-12;

* * *

[See Prior Text in D.33.c-37.b]

i. The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute hazardous waste, 1,000 kg of nonacute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream.

ii. The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste.

* * *

[See Prior Text in D.37.b.iii-vi]

c. The administrative authority may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The administrative authority may grant requests on a case-by-case basis for quantity limits in excess of those specified in Subsection D.37.b.i of this Section for up to an additional 5,000 kg of media contaminated with nonacute hazardous waste, 500 kg of nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste and 1 kg of acute hazardous waste:

i. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing

(particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations;

ii. in response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when: there has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of a previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an on-going treatability study to determine final specifications for treatment;

iii. The additional quantities and time frames allowed in Subsection D.37.c.i and ii of this Section are subject to all the provisions in Subsection D.37.a and b.iii and vi of this Section. The generator or sample collector must apply to the administrative authority and provide in writing the following information:

(a) the reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

(b) documentation accounting for all samples of hazardous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

(c) a description of the technical modifications or change in specifications that will be evaluated and the expected results;

(d) if such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

(e) such other information that the administrative authority considers necessary.

* * *

[See Prior Text in D.38-38.b]

c. No more than a total of 10,000 kg of "as received" media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subjected to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

d. The quantity of "as received" hazardous waste stored at the facility for the purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which may include 10,000 kg of media contaminated with nonacute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of nonacute hazardous wastes other than contaminated media, and 1 kg of acute

hazardous waste. This quantity limitation does not include treatment materials (including nonhazardous solid waste) added to "as received" hazardous waste.

e. No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

* * *

[See Prior Text in D.38.f.43.d]

e. material subjected on in-situ mining techniques which are not removed from the ground as part of the extraction process;

f. nonwastewater splash condenser dross residue from the treatment of K061 in high-temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery; and

g. recovered oil from petroleum refining, exploration and production, and from transportation incident thereto, which is to be inserted into the petroleum refining process (SIC Code 2911) along with normal process streams prior to crude distillation or catalytic cracking. This exclusion applies to recovered oil stored or transported prior to insertion, except that the oil must not be stored in a manner involving placement on the land, and must not be accumulated speculatively, before being so recycled. Recovered oil is oil that has been reclaimed from secondary materials (such as wastewater) generated from normal petroleum refining, exploration and production, and transportation practices. Recovered oil includes oil that is recovered from refinery wastewater collection and treatment systems, oil recovered from oil and gas drilling operations, and oil recovered from wastes removed from crude oil storage tanks. Recovered oil does not include (among other things) oil-bearing hazardous wastes listed in LAC 33:V.4901 (e.g., K048-K052, F037, F038). However, oil recovered from such wastes may be considered recovered oil. Recovered oil also does not include used oil as defined in LAC 33:V.4001.

* * *

[See Prior Text in D.44-M.10]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 14:790 (November 1988), LR 15:181 (March 1989), LR 16:47 (January 1990), LR 16:217 (March 1990), LR 16:220 (March 1990), LR 16:398 (May 1990), LR 16:614 (July 1990), LR 17:362 (April 1991), LR 17:368 (April 1991), LR 17:478 (May 1991), LR 17:883 (September 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), amended by the Office of the Secretary, LR 19:1022 (August 1993), amended by the Office of Solid and Hazardous Waste, Hazardous

Waste Division, LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

Chapter 5. Permit Application Contents

Subchapter F. Special Forms of Permits

§537. Permits for Boiler and Industrial Furnaces

Burning Hazardous Waste for Recycling Purposes Only (boilers and industrial furnaces burning hazardous waste for destruction are subject to permit requirements for incinerators)

* * *

[See Prior Text in A-B.3.b]

4. Final Permit. For the final period of operation, the administrative authority will develop operating requirements in conformance with LAC 33:V.3005.E that reflect conditions in the trial burn plan and are likely to ensure compliance with the performance standards of LAC 33:V.3009-3015. After reviewing the trial burn results, the administrative authority will modify the permit as necessary to develop a final permit that will ensure compliance with the performance standards of LAC 33:V.3009-3015. The permit modification shall proceed according to LAC 33:V.321.

* * *

[See Prior Text in C]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:737 (September 1989), amended LR 18:1375 (December 1992), LR 21:266 (March 1995), LR 22:

Chapter 15. Treatment, Storage, and Disposal Facilities
§1529. Operating Record and Reporting Requirements

* * *

[See Prior Text in A-B.2]

3. Record the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1.

Table 1. Units For Reporting	
Units of Measure	Code ¹
Gallons	G
Gallons per hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C

Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I
¹ Single digit symbols are used here for data processing purposes.	

4. The method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal.

Table 2. Handling Codes for Treatment, Storage, and Disposal Methods	
Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.	
Storage	
S01	Container (barrel, drum, etc.)
S02	Tank
S03	Waste Pile
S04	Surface Impoundment
S05	Drip Pad
S06	Containment Building (Storage)
S99	Other Storage (specify)
Treatment	
Thermal Treatment	
T06	Liquid injection incinerator
T07	Rotary kiln incinerator
T08	Fluidized bed incinerator
T09	Multiple hearth incinerator
T10	Infrared furnace incinerator
T11	Molten salt destructor
T12	Pyrolysis
T13	Wet air oxidation
T14	Calcination
T15	Microwave discharge
T18	Other (specify)
Chemical Treatment	
T19	Absorption mound
T20	Absorption field
T21	Chemical fixation
T22	Chemical oxidation
T23	Chemical precipitation

T24	Chemical reduction
T25	Chlorination
T26	Chlorinolysis
T27	Cyanide destruction
T28	Degradation
T29	Detoxification
T30	Ion exchange
T31	Neutralization
T32	Ozonation
T33	Photolysis
T34	Other (specify)
Physical Treatment	
Separation of Components:	
T35	Centrifugation
T36	Clarification
T37	Coagulation
T38	Decanting
T39	Encapsulation
T40	Filtration
T41	Flocculation
T42	Flotation
T43	Foaming
T44	Sedimentation
T45	Thickening
T46	Ultrafiltration
T47	Other (specify)
Removal of Specific Components:	
T48	Absorption-molecular sieve
T49	Activated carbon
T50	Blending
T51	Catalysis
T52	Crystallization
T53	Dialysis
T54	Distillation
T55	Electrodialysis
T56	Electrolysis
T57	Evaporation
T58	High gradient magnetic separation
T59	Leaching
T60	Liquid ion exchange

T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping
T65 Sand filter
T66 Other (specify)
Biological Treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Tricking filter
T76 Waste stabilization pond
T77 Other (specify)
T78 [Reserved]
T79 [Reserved]
Boilers and Industrial Furnaces
T80 Boiler
T81 Cement Kiln
T82 Lime Kiln
T83 Aggregate Kiln
T84 Phosphate Kiln
T85 Coke Oven
T86 Blast Furnace
T87 Smelting, Melting, or Refining Furnace
T88 Titanium Dioxide Chloride Process Oxidation Reactor
T89 Methane Reforming Furnace
T90 Pulping Liquor Recovery Furnace
T91 Combustion Device Used in the Recovery of Sulfur Values from Spent Sulfuric Acid
T92 Halogen Acid Furnaces
T93 Other Industrial Furnaces Listed in LAC 33:V.109 (specify)
Other Treatment
T94 Containment Building (Treatment)
Disposal
D79 Underground Injection
D80 Landfill

D81 Land Treatment
D82 Ocean Disposal
D83 Surface Impoundment (to be closed as a landfill)
D99 Other Disposal (specify)
Miscellaneous (Chapter 32)
X01 Open Burning/Open Detonation
X02 Mechanical Processing
X03 Thermal Unit
X04 Geologic Repository
X99 Other Chapter 32 (specify)

* * *

[See Prior Text in B.5-E.3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 15:378 (May 1989), LR 16:220 (March 1990), LR 16:399 (May 1990), LR 17:658 (July 1991), LR 18:1256 (November 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:

Appendix
Table 2. Treatment Standards for Hazardous Wastes

Waste Code	Waste Description and Treatment/Regulatory Subcategory ¹	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS ² Number	Concentration mg/l ³ ; or Technology Code ⁴	Concentration in mg/kg ⁵ unless noted as "mg/l TCLP" or Technology Code
* * * [See Prior Text in D001-P014]					
P015	Beryllium Powder	Beryllium	7440-41-7	RMETL; or RTHRM	RMETL; or RTHRM
* * * [See Prior Text in P016-U359]					

¹ The waste descriptions provided in this table do not replace waste descriptions in LAC 33:V.Chapter 49. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

² CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

³ Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

⁴ All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in LAC 33:V.Chapter 22, Appendices, Table 3. Technology Codes and Descriptions of Technology-Based Standards.

⁵ Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of LAC 33:V.Chapter 31, LAC 33:V.Chapter 43.Subpart N, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in LAC 33:V.2223.E. All concentration standards for nonwastewaters are based on analysis of grab samples.

⁶ Where an alternate treatment standard or set of alternate standards has been indicated, a facility may comply with this alternate standard, but only for the Treatment/Regulatory Subcategory or physical form (i.e., wastewater and/or nonwastewater) specified for that alternate standard.

⁷ Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed using Method 9010 or 9012, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", EPA Publication SW-846, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

Note: NA means not applicable.

Chapter 30. Hazardous Waste Burned in Boilers and Industrial Furnaces

§3001. Applicability

* * *

[See Prior Text in A-B.2]

3. hazardous wastes that are exempt from regulation under LAC 33:V.105.D and 4105.B.10-12, and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under LAC 33:V.Chapter 39; and

* * *

[See Prior Text in B.4-F.1.c]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1375 (December 1992), amended LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

Chapter 31. Incinerators

§3105. Applicability

* * *

[See Prior Text in A-E]

Table 1. Hazardous Constituents			
Common Name	Chemical Abstracts Name	Chemical Abstracts Number	Hazardous Waste Number
* * * [See Prior Text in Acetonitrile-Benzyl Chloride]			
Beryllium Powder	Same	7440-41-7	P015
* * * [See Prior Text in Beryllium compounds, N.O.S. ¹ -Potassium cyanide]			
Potassium pentachlorophenate	Pentachlorophenol, potassium salt	7778736	None
* * * [See Prior Text in Potassium silver cyanide-Sodium cyanide]			
Sodium pentachlorophenate	Pentachlorophenol, sodium salt	131522	None
* * * [See Prior Text in Streptozotocin-2,3,4,6-Tetrachlorophenol]			
2,3,4,6-Tetrachlorophenol, potassium salt	same	53535276	None
2,3,4,6-Tetrachlorophenol, sodium salt	same	25567559	None
* * * [See Prior Text in Tetraethyldithiopyrophosphate-Zinc phosphide]			

¹ The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:1139 (December 1985), LR 13:433 (August 1987), LR 14:424 (July 1988), LR 15:737 (September 1989), LR 16:399 (May 1990), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:944 (September 1995), LR 22:

§3115. Incinerator Permits for New or Modified Facilities

* * *

[See Prior Text in A-B.11.d]

12. during, or immediately after, each approved trial burn the applicant must make the following determinations when a DRE trial burn is required under LAC 33:V.3009.A:

a. a quantitative analysis of the trial POHCs in the waste feed;

* * *

[See Prior Text in B.12.b-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 16:614 (July 1990), LR 18:1256 (November 1992), LR 22:

Chapter 37. Financial Requirements

Subchapter F. Financial and Insurance Instruments

§3719. Wording of the Instruments

* * *

[See Prior Text in A-C]

D. Letter of Credit. A letter of credit, as specified in LAC 33:V.3707.D or 3711.D or 4403.C or 4407.C must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary
Louisiana Department of Environmental Quality
P.O. Box 82263
Baton Rouge, LA 70884-2263

Dear [Sir or Madam]:

We hereby establish our Irrevocable Standby Letter of Credit Number ___ in favor of the Department of Environmental Quality of the State of Louisiana at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of U.S. dollars \$ _____ upon presentation of:

1. a sight draft, bearing reference to the Letter of Credit Number ___ drawn by the Secretary or his or her designated representative, together with;

2. a statement signed by the Secretary or his or her designated representative, reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Louisiana Environmental Quality Act, R.S. 30:2001, et seq."

This Letter of Credit is effective as of ____, 19__, and shall expire on ____, 19__ [date at least one year later], but such expiration date will be automatically extended for a period of at least one year on the above expiration date [__, 19__] and on each successive expiration date thereafter, unless, at least 120 days before the then current expiration date, we notify both you and [name of owner/operator] by certified mail that we have

decided not to extend this Letter of Credit beyond the then current expiration date. In the event we give such notification, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [name of owner/operator], as shown on the signed return receipts.

Whenever this Letter of Credit is drawn under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of [name of owner/operator] in accordance with your instructions.

We certify that the wording of this Letter of Credit is identical to the wording specified in LAC 33:V.3719.D as such regulations were constituted on the date shown immediately below.

[Signature(s) and Titles of Official(s) of issuing institutions]

[DATE]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

* * *

[See Prior Text in E-J.2.e]

K. Letter of Credit. A letter of credit, as specified in LAC 33:V.3715 or 4411, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted.

IRREVOCABLE STANDBY LETTER OF CREDIT

Secretary

Louisiana Department of Environmental Quality

P.O. Box 82263

Baton Rouge, Louisiana 70884-2263

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit Number _____ in the favor of ["any and all third-party liability claimants" or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator's name and address] for third-party liability awards or settlements up to [in words] U.S. dollars \$ _____ per occurrence and the annual aggregate amount of [in words] U.S. dollars, for sudden accidental occurrences and/or for third-party liability awards or settlements up to the amount of [in words] U.S. dollars \$ _____ per occurrence, and the annual aggregate amount of [in words] U.S. dollars \$ _____ for nonsudden accidental occurrences available upon presentation of a sight draft bearing reference to this Letter of Credit Number _____, and [insert the following language if the letter of credit is being used without a standby trust fund:]

* * *

[See Prior Text in K.1-1.c.ii.(a)]

(b). to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in Subsection K.1.c.i or ii of this Section.

* * *

[See Prior Text in K.1.d-e.v]

2. Or, as an alternative to the Certificate of Valid Claim, a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

This Letter of Credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the administrative authority, and [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this Letter of Credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

[Insert the following language if a standby trust fund is not being used: "In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered [insert "primary" or "excess" coverage]."]

We certify that the wording of this letter of credit is identical to the wording specified in LAC 33:V.3719.K as such regulations were constituted on the date shown immediately below.

[Signature(s) and title(s) of official(s) of issuing institution [Date]]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits published and copyrighted

by the International Chamber of Commerce" or "the Uniform Commercial Code"].

* * *

[See Prior Text in L-N.2]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:686 (July 1985), LR 13:433 (August 1987), LR 13:651 (November 1987), LR 16:47 (January 1990), LR 18:723 (July 1992), LR 21:266 (March 1995), LR 22:

Chapter 40. Used Oil

§4001. Definitions

Terms that are defined in LAC 33:V.109 have the same meanings when used in this Chapter.

* * *

[See Prior Text]

Petroleum Refining Facility—an establishment primarily engaged in producing gasoline, kerosine, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes (i.e., facilities classified as SIC 2911).

* * *

[See Prior Text]

Used Oil Transfer Facility—any transportation-related facility, including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed in accordance with LAC 33:V.4009.B.2. Transfer facilities that store used oil for more than 35 days are subject to regulation under Subchapter E of this Chapter.

* * *

[See Prior Text]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:

Subchapter A. Materials Regulated as Used Oil

§4003. Applicability

This Section identifies those materials which are subject to regulation as used oil under this Chapter. This Section also identifies some materials that are not subject to regulation as used oil under this Chapter and indicates whether these materials may be subject to regulation as hazardous waste under this Subpart.

* * *

[See Prior Text in A-B.2.b]

c. regulation as used oil under this Chapter if the mixture is of used oil and a waste which is hazardous solely because it exhibits the characteristic of ignitability (e.g., ignitable-only mineral spirits), provided that the resulting mixture does not exhibit the characteristic of ignitability under LAC 33:V.4903.

* * *

[See Prior Text in C-F]

G. Used Oil Introduced into Crude Oil Pipelines or a Petroleum Refining Facility

* * *

[See Prior Text in G.1-I]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:

Subchapter B. Standards for Used Oil Generators
§4009. Applicability

* * *

[See Prior Text in A-B.2.a]

b. separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to section 402 or section 307(b) of the Clean Water Act, LAC 33:IX, or other applicable federal or state regulations governing the management or discharge of wastewater;

* * *

[See Prior Text in B.2.c-5]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 21:266 (March 1995), amended LR 22:

Chapter 41. Recyclable Materials

§4105. Requirements for Recyclable Materials

Recyclable materials are subject to additional regulations as follows:

* * *

[See Prior Text in A-B.7]

8. fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining production, and transportation practices (this exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, where such recovered oil is already excluded under LAC 33:V.105.D.43.g);

9. hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under LAC 33:V.4005 of this Chapter and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

10. hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining, production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under LAC 33:V.4005;

11. oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under LAC 33:V.4005;

12. petroleum coke produced from petroleum refinery

hazardous wastes containing oil at the same facility by the same person who generated the waste, unless the resulting coke product exceeds one or more of the characteristics of hazardous waste in LAC 33:V.4903;

13. wastes described in Subsection B.1-13 of this Section, which are used or reused on-site or stored at the generation site prior to such use or reuse on-site are exempt from these regulations except that on-site storage shall be in an environmentally sound manner.

* * *

[See Prior Text in C-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 11:988 (October 1985), amended LR 11:1139 (December 1985), LR 12:319 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 16:219 (March 1990), LR 17:362 (April 1991), repromulgated LR 18:1256 (November 1992), amended LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:

Chapter 43. Interim Status
§4357. Operating Record

* * *

[See Prior Text in A]

B. Records of each hazardous waste received, treated, stored, or disposed of at the facility must be recorded, as they become available, and maintained in the operating record until closure of the facility. These records shall include the following information:

1. a description by its common name and the EPA hazardous waste number(s) (LAC 33:V.Chapter 49) that apply to the waste and the quantity of each hazardous waste received. The waste description also must include the waste's physical form, i.e., liquid, sludge, solid, or contained gas. If the waste is not listed in LAC 33:V.Chapter 49, the description also must include the process that produced it.

* * *

[See Prior Text in B.2]

3. the estimated or manifest-reported weight, or volume and density, where applicable, in one of the units of measure specified in Table 1;

Table 1. Units For Reporting	
Units of Measure	Code ¹
Gallons	G
Gallons per hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S

Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I
¹ Single digit symbols are used here for data processing purposes.	

T21 Chemical fixation
T22 Chemical oxidation
T23 Chemical precipitation
T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction
T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)
Physical Treatment
Separation of Components:
T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)
Removal of Specific Components:
T48 Absorption-molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation

4. the method(s) (by handling code(s) as specified in Table 2) and date(s) of treatment, storage, or disposal;

Table 2. Handling Codes for Treatment, Storage, and Disposal Methods
Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.
Storage
S01 Container (barrel, drum, etc.)
S02 Tank
S03 Waste Pile
S04 Surface Impoundment
S05 Drip Pad
S06 Containment Building (Storage)
S99 Other Storage (specify)
Treatment
Thermal Treatment
T06 Liquid injection incinerator
T07 Rotary kiln incinerator
T08 Fluidized bed incinerator
T09 Multiple hearth incinerator
T10 Infrared furnace incinerator
T11 Molten salt destructor
T12 Pyrolysis
T13 Wet air oxidation
T14 Calcination
T15 Microwave discharge
T18 Other (specify)
Chemical Treatment
T19 Absorption mound
T20 Absorption field

T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping
T65 Sand filter
T66 Other (specify)
Biological Treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Tricking filter
T76 Waste stabilization pond
T77 Other (specify)
T78 [Reserved]
T79 [Reserved]
Boilers and Industrial Furnaces
T80 Boiler
T81 Cement Kiln
T82 Lime Kiln
T83 Aggregate Kiln
T84 Phosphate Kiln
T85 Coke Oven
T86 Blast Furnace
T87 Smelting, Melting, or Refining Furnace
T88 Titanium Dioxide Chloride Process Oxidation Reactor
T89 Methane Reforming Furnace
T90 Pulping Liquor Recovery Furnace
T91 Combustion Device Used in the Recovery of Sulfur Values from Spent Sulfuric Acid
T92 Halogen Acid Furnaces
T93 Other Industrial Furnaces Listed in LAC 33:V.109 (specify)
Other Treatment
T94 Containment Building (Treatment)

Disposal
D79 Underground Injection
D80 Landfill
D81 Land Treatment
D82 Ocean Disposal
D83 Surface Impoundment (to be closed as a landfill)
D99 Other Disposal (specify)
Miscellaneous (Chapter 32)
X01 Open Burning/Open Detonation
X02 Mechanical Processing
X03 Thermal Unit
X04 Geologic Repository
X99 Other Chapter 32 (specify)

5. records and results of waste analyses and trial tests performed as specified in LAC 33:V.2237.A, 2245, 4313, 4445, 4453, 4467, 4481, 4507, 4515, 4527, 4539, 4557, and 4587;

6. summary reports and details of all incidents that require implementing the contingency plan as specified in LAC 33:V.1513.F.10;

7. records and results of inspections as required by LAC 33:V.1509.D (except these data need be kept only three years);

8. monitoring, testing, or analytical data, and corrective action where required by LAC 33:V.Chapter 43.Subchapter E, 4320, 4367, 4375, 4437, 4440, 4449, 4451, 4455, 4470, 4472, 4474, 4483, 4485, 4489.D.1, 4497, 4498, 4502, 4519, 4529, 4557, 4559, 4587, and 4589;

9. all closure cost estimates under LAC 33:V.4401 and, for disposal facilities, all post-closure cost estimates under LAC 33:V.4405;

10. records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal prohibition granted pursuant to LAC 33:V.2239, monitoring data required pursuant to a petition under LAC 33:V.2241 or 2242 or a certification under LAC 33:V.2235, and the applicable notice required of a generator under LAC 33:V.2245;

11. for an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2235, 2245, or 2247;

12. for an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2235, 2245, or 2247;

13. for an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2235, 2245, or 2247;

14. for an on-site land disposal facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2235, 2245, or 2247;

15. for an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under LAC 33:V.2235, 2245, or 2247;

16. for an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under LAC 33:V.2235, 2245, or 2247.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 15:378 (May 1989), LR 16:220 (March 1990), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 22:

Chapter 49. Lists of Hazardous Wastes

§4901. Category I Hazardous Wastes

* * *

[See Prior Text in A-E.Comment]

Table 3. Acute Hazardous Wastes

EPA Hazardous Waste Number	Chemical Abstract Number	Hazardous Waste
* * *		
[See Prior Text in Acetaldehyde, chloro-Benzyl chloride]		
P015	7440-41-7	Beryllium Powder
* * *		
[See Prior Text in Bromoacetone-Zinc phosphide....]		

¹ CAS Number given for parent compound only.

* * *

[See Prior Text in F-G(Table 6)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 10:496 (July 1984), LR 11:1139 (December 1985), LR 12:320 (May 1986), LR 13:84 (February 1987), LR 13:433 (August 1987), LR 14:426 (July 1988), LR 14:790 (November 1988), LR 15:182 (March 1989), LR 16:47 (January 1990), LR 16:220 (March 1990), LR 16:614 (July 1990), LR 16:1057 (December 1990), LR 17:369 (April 1991), LR 17:478 (May 1991), LR 17:658 (July 1991), LR 18:723 (July 1992), LR 18:1256 (November 1992), LR 18:1375 (December 1992), LR 20:1000 (September 1994), LR 21:266 (March 1995), LR 21:944 (September 1995), LR 22:

A public hearing will be held on August 29, 1996, 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 please 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 HW050. Such comments should be submitted no later than August 29, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA, 70810 or to FAX number (504)765-0486. The comment period for this rule ends on the same date as the public hearing.

Mike Strong
Assistant Secretary

9607#064

NOTICE OF INTENT

**Department of Environmental Quality
Office of Solid and Hazardous Waste
Hazardous Waste Division**

Waste Minimization Plan (LAC 33:V.2245)(HW056)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Division regulations, LAC 33:V.2245 (HW056).

This rule removes the requirement for small quantity generators to develop and maintain a waste minimization plan onsite. Requests were made to the department to remove the waste minimization plan requirement for small quantity generators. The department reviewed the rule and determined that this requirement places an unnecessary burden on small quantity generators.

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.

Title 33

ENVIRONMENTAL QUALITY

**Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste**

**Chapter 22. Prohibitions on Land Disposal
Subchapter A. Land Disposal Restrictions**

**§2245. Generators' Waste Analysis, Recordkeeping,
and Notice Requirements**

* * *

[See Prior Text in A-J]

K. All large quantity generators shall develop and retain a waste-minimization plan on site. The plan shall be submitted to the administrative authority within 30 days of receipt of a request by the administrative authority. The plan shall include ongoing and proposed waste-minimization projects and tentative beginning dates for proposed projects.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 21:267 (March 1995), LR 21:1334 (December 1995), LR 22:22 (January 1996), LR 22:

A public hearing will be held on August 29, 1996, 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 please 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 Log HW056. Such comments should be submitted no later than September 5, 1996, at 4:30 p.m., to Patsy Deaville, Investigations and Regulation Development Division, Box 82282, Baton Rouge, LA 70810 or to FAX number (504) 765-0486.

Mike Strong
Assistant Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Waste Minimization Plan**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No significant costs to state or local governments are anticipated as a result of the implementation of this rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There should be no significant effect on revenue collections of state or local governments as a result of the implementation of this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Small quantity generators will receive economic benefits by not developing and maintaining a waste-minimization plan on site.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition and employment is not expected to be affected as a result of the implementation of this rule.

H.M. Strong
Assistant Secretary
9607#063

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Examiners of Psychologists**

Public Display of Board's Address (LAC 46:LXIII.1903)

Notice is hereby given, in accordance with R.S. 49:950 et seq. that the Department of Health and Hospitals, Board of Examiners of Psychologists intends to amend Chapter 19, Public Information.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part LXIII. Psychologists**

**Chapter 19. Public Information
§1903. Public Display of Board's Address**

There shall at all times be prominently displayed in the place(s) of business of each licensee regulated under this law the official sign provided by the board containing the name, mailing address, and telephone number of the board along with the following statement:

Be it known that the Louisiana State Board of Examiners of Psychologists receives questions regarding the practice of psychology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2353.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners of Psychologists, LR 15:87 (February 1989), amended LR 22:

Inquiries concerning the proposed rule may be directed in writing to: Brenda C. Rockett, Executive Director, Board of Examiners of Psychologists, 11924 Justice Avenue, Suite A, Baton Rouge, LA 70816.

Interested persons may submit data, views, arguments, information or comments on the proposed rules, in writing, to the Board of Examiners of Psychologists, 11924 Justice Avenue, Suite A, Baton Rouge, LA 70816.

Written comments must be submitted to and received by the board within 30 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.

Brenda C. Rockett
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Public Display of Board's Address**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Estimated implementation cost to the Board of Examiners of Psychologists is \$75 for the printing of new placards.
- 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 effect on the board's revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed rule amendment will have any effect to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed rules will have any significant impact on competition or employment in either the public or private sector.

Brenda C. Rockett
Executive Director
9607#035

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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 Louisiana 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 intends to amend their 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 Louisiana Licensed Professional 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 Licensed Professional Counselors 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, Board of Examiners, LR 15:622 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2103. The Counseling Relationship

A. Client Welfare

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

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

3. Counseling Plans. Counselors and their clients 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 regularly review counseling plans to ensure their continued viability and effectiveness, respecting clients' freedom of choice.

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

5. Career and Employment Needs. Counselors 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 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 do not condone or engage in discrimination based on age, color, culture, disability, ethnic group, gender, race, religion, sexual orientation, marital status, or socioeconomic.

2. Respecting Differences. Counselors will 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.

C. Client Rights

1. Disclosure to Clients. When counseling is initiated, and throughout the counseling process as necessary, counselors inform clients of the purposes, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed, and other pertinent information. Counselors take steps to ensure that clients understand and implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements. Clients 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 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 are fully explained.

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

D. Clients Served By Others. If a client is receiving services from another mental health professional, counselors, with clients consent, 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 are aware of the intimacy and responsibilities inherent in the counseling relationship, maintain respect for clients, and avoid actions that seek to meet their personal needs at the expense of clients.

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

F. Dual Relationships

1. Avoid When Possible. Counselors are aware of their influential positions with respect to clients, and they avoid exploiting the trust and dependency of clients. Counselors 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 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 do 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 do not have any type of sexual intimacies with clients and do not counsel persons with whom they have had a sexual relationship.

2. Former Clients. Counselors do 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 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, clients'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 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 clarify, adjust, or withdraw from roles appropriately.

I. Group Work

1. Screening. Counselors screen prospective group counseling/therapy participants. To the extent possible, counselors 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 take reasonable precautions to protect clients from physical or psychological trauma.

J. Fees and Bartering

1. Advance Understanding. Counselors 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 consider the financial status of clients and locality. In the event that the established fee structure is inappropriate for a client, assistance is provided in attempting to find comparable services of acceptable cost.

3. Bartering Discouraged. Counselors 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 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 do not abandon or neglect clients in counseling. Counselors 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 avoid entering or immediately terminate a counseling relationship. Counselors are knowledgeable about referral resources and suggest appropriate alternatives. If clients decline the suggested referral, counselors should discontinue the relationship.

3. Appropriate Termination. Counselors 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, 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 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; and
- 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 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 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, Board of Examiners, LR 15:622 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2105. Confidentiality

A. Right to Privacy

1. Respect for Privacy. Counselors 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 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 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 is 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 should 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 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 is revealed. To the extent possible, clients are informed before confidential information is disclosed.

7. Explanation of Limitations. When counseling is initiated and throughout the counseling process as necessary, counselors inform clients of the limitations of confidentiality

and identify foreseeable situations in which confidentiality must be breached.

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

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

B. Groups and Families

1. Group Work. In group work, counselors 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 is clearly communicated to group members.

2. Family Counseling. In family counseling, information about one family member cannot be disclosed to another member without permission. Counselors 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 may be included in the counseling process as appropriate. Counselors act in the best interests of clients and take measures to safeguard confidentiality.

D. Records

1. Requirement of Records. Counselors 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 are 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 obtain permission from clients prior to electronically recording or observing sessions.

4. Client Access. Counselors recognize that counseling records are kept for the benefit of clients, and therefore 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 is limited to those parts of records that do not include confidential information related to another client.

5. Disclosure or Transfer. Counselors obtain written permission from clients to disclose or transfer records to legitimate third parties unless exceptions to confidentiality exist as listed in percent 2105.A. Steps are 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 is 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 is 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 is discussed for professional purposes only with person clearly concerned with the case. Written and oral reports present data germane to the purposes of the consultation, and every effort is made to protect client identity and avoid undue invasion of privacy.

2. Cooperating Agencies. Before sharing information, counselors 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, Board of Examiners, LR 15:623 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2107. Professional Responsibility

A. Standards knowledge counselors 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 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 will demonstrate a commitment to gain knowledge, personal awareness, sensitivity, and skills pertinent to working with a diverse client population.

2. New Specialty Areas of Practice. Counselors practice in specialty areas new to them only after appropriate education, training, and supervised experience. While developing skills in new specialty areas, counselors take steps to ensure the competence of their work and to protect others from possible harm.

3. Qualified for Employment. Counselors 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 hire for professional counseling positions only individuals who are qualified and competent.

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

5. Ethical Issues Consultation. Counselors 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 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 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 refrain from offering or accepting professional services when their physical, mental or emotional problems are likely to harm a client or others. They are 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 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 may only advertise the highest degree earned which is in counseling or a closely related field from a college or university that was accredited when the degree was awarded by one of the regional accrediting bodies recognized by the Council on Post-secondary Accreditation.

2. Testimonials. Counselors who use testimonials do 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 make reasonable efforts to ensure that statements made by others about them or the profession of counseling are accurate.

4. Recruiting Through Employment. Counselors do 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 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 do 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 actively participate in local, state, and national associations that foster the development and improvement of counseling.

D. Credentials

1. Credentials Claimed. Counselors claim or imply only professional credentials possessed and are responsible for correcting any known misrepresentations of their credentials by others. Professional credentials 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 may not announce their ACA membership in a manner that might imply they are credentialed counselors.

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

4. Misrepresentation of Credentials. Counselors do not attribute more to their credentials than the credentials represent, and do 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 do not use the title, "Dr." in their practices and do 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 do 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 do not engage in sexual harassment. Sexual harassment is defined as 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:

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

b. is sufficiently severe or intense to be perceived as harassment to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts.

3. Reports to Third Parties. Counselors are 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 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; and

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

5. Unjustified Gains. Counselors do 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 are respectful of

approaches to professional counseling that differ from their own. Counselors 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 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 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, Board of Examiners, LR 15:622 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2109. Relationships with Other Professionals

A. Relationships with Employers and Employees

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

2. Agreements. Counselors 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 are specified and made known to those concerned.

3. Negative Conditions. Counselors 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 submit regularly to professional review and evaluation by their supervisor or the appropriate representative of the employer.

5. In-Service. Counselors are responsible for in-service development of self and staff.

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

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

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

9. Discrimination. Counselors, as either employers or employees, do 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 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 do 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 are in agreement with its general policies and principles. Counselors 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 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 consult with other professionals whenever possible to consider justifiable

2. Consultant Competency. Counselors are 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 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 are consistently encouraged and cultivated.

C. Fees for Referral

1. Accepting Fees from Agency Clients. Counselors 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 do not accept a referral fee from other professionals.

D. Subcontractor Arrangements. When counselors work as subcontractors for counseling services for a third party, they 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 are 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, Board of Examiners, LR 15:625 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2111. Evaluation, Assessment, and Interpretation

A. General

1. Appraisal Techniques. The primary purpose of

educational and psychological assessment is to provide measures that are objective and interpretable in either comparative or absolute terms. Counselors recognize the need to interpret the statements in this section as applying to the whole range of appraisal techniques, including test and non-test data.

2. Client Welfare. Counselors promote the welfare and best interests of the client in the development, publication and utilization of educational and psychological assessment techniques. They do not misuse assessment results and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide. They 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 recognize the limits of their competence and perform only those testing and assessment services for which they have been trained. They are familiar with reliability, validity, related standardization, error of measurement, and proper application of any technique utilized. Counselors using computer-based test interpretations are trained in the construction being measured and the specific instrument being used prior to using this type of computer application. Counselors take reasonable measures to ensure the proper use of psychological assessment techniques by persons under their supervision.

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

3. Decisions Based on Results. Counselors responsible for decisions involving individuals or policies that are based on assessment results have a thorough understanding of educational and psychological measurement, including validation criteria, test research, and guidelines for test development and use.

4. Accurate Information. Counselors provide accurate information and avoid false claims or misconceptions when making statements about assessment instruments or techniques. Special efforts are made to avoid unwarranted connotations of such terms as IQ and grade equivalent scores. (See Subsection C.5.c)

C. Informed Consent

1. Explanation to Clients. Prior to assessment, counselors explain the nature and purposes of assessment and the specific use of results in language the client (or other legally authorized person on behalf of the client) can understand, unless as explicit exception to this right has been agreed upon in advance. Regardless of whether scoring and interpretation are completed by counselors, by assistants, or by computer or other outside services, counselors 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 determine the recipients of test results. Counselors 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 do not misuse assessment results, including test results, and interpretations, and take reasonable steps to prevent the misuse of such by others.

2. **Release of Raw Data.** Counselors 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. Proper Diagnosis of Mental Disorders

1. **Proper Diagnosis.** Counselors take special care to provide proper diagnosis of mental disorders. Assessment techniques (including personal interview) used to determine client care (e.g., locus of treatment, type of treatment, or recommended follow-up) are carefully selected and appropriately used.

2. **Cultural Sensitivity.** Counselors recognize that culture affects the manner in which clients' problems are defined. Clients' socioeconomic and cultural experience is considered when diagnosing mental disorders.

F. Test Selection

1. **Appropriateness of Instruments.** Counselors 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 are cautious when selecting tests for culturally diverse populations to avoid inappropriateness of testing that may be outside of socialized behavioral or cognitive patterns.

G. Conditions of Test Administration

1. **Administration Conditions.** Counselors 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 are noted in interpretation, and the results may be designated as invalid or of questionable validity.

2. **Computer Administration.** Counselors are 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 do not permit unsupervised or inadequately supervised use of tests or assessments unless the tests or assessments 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 are made known to the examinee.

H. **Diversity in Testing.** Counselors are cautious in using assessment techniques, making evaluations, and interpreting the performance of populations not represented in the norm group on which an instrument was standardized. They 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.

I. Test Scoring and Interpretation

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

2. **Research Instruments.** Counselors 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 are stated explicitly to the examinee.

3. **Testing Services.** Counselors who provide test scoring and test interpretation services to support the assessment process confirm the validity of such interpretations. They 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 is considered a professional-to-professional consultation. The formal responsibility of the consultant is to the consultee, but the ultimate and overriding responsibility is to the client.

J. **Test Security.** Counselors maintain the integrity and security of tests and other assessment techniques consistent with legal and contractual obligations. Counselors do not appropriate, reproduce, or modify published tests or parts thereof without acknowledgment and permission from the publisher.

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

L. **Test Construction.** Counselors use established scientific procedures, relevant standards, and current professional knowledge for test design in the development, publication, and utilization of educational and psychological assessment techniques.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Examiners, LR 15:624 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§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 are skilled as teachers and practitioners. They are knowledgeable regarding the ethical, legal, and regulatory aspects of the profession, are skilled in applying that knowledge, and make students and supervisees aware of their responsibilities. Counselors conduct counselor education and training programs in an ethical manner and serve as role models for professional behavior. Counselor educators should 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 clearly define and maintain ethical, professional, and social relationship boundaries with their students and supervisees. They are aware of the differential in power that exists and the student's or supervisee's possible incomprehension of that power differential. Counselors explain to students and supervisees the potential for the relationship to become exploitive.

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

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

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

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

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

8. **Endorsement.** Counselors do 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 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 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, and
- g. up-to-date employment prospects for graduates.

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

3. **Evaluation.** Counselors 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 provide students and supervisees with periodic performance

appraisal and evaluation feedback throughout the training program.

4. **Teaching Ethics.** Counselors 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 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 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 present varied theoretical positions so that students and supervisees may make comparisons and have opportunities to develop their own positions. Counselors provide information concerning the scientific bases of professional practice.

7. **Field Placements.** Counselors develop clear policies within their training program regarding field placement and other clinical experiences. Counselors provide clearly stated roles and responsibilities for the student or supervisee, the site supervisor, and the program supervisor. They 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 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 do 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 are 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, are aware of the academic and personal limitations of students and supervisees that might impede performance. Counselors 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 seek professional consultation and document their decision to dismiss or refer students or supervisees for assistance. Counselors 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 use professional judgment when designing training experiences conducted by the counselors themselves that require student and supervisee self-growth or self-disclosure. Safeguards are 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 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 provide them with acceptable referrals. Supervisors or counselor educators do 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 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 receive professional disclosure information and are informed of the limits of confidentiality. Client permission is 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 adhere to the Code of Ethics and the Standards of Practice. Students and supervisees 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, Board of Examiners, LR 15:626 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2115. Research and Publication

A. Research Responsibilities

1. Use of Human Subjects. Counselors 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 design and conduct research that reflects cultural sensitivity appropriateness.

2. Deviation from Standard Practices. Counselors 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 are responsible for the subjects' welfare throughout the experiment and 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 lies with the principal researcher. All others involved in the research activities share ethical obligations and full responsibility for their own actions.

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

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

B. Informed Consent

1. Topics Disclosed. In obtaining informed consent for research, counselors 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; and

h. instructs that subjects are free to withdraw their consent and to discontinue participation in the project at any time.

2. Deception. Counselors do 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 is required to explain clearly the reasons for this action as soon as possible.

3. Voluntary Participation. Participation in research is typically voluntary and without any penalty for refusal to participate. Involuntary participation is 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, 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 provide an appropriate explanation, obtain agreement for participation and obtain appropriate consent from a legally authorized person.

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

7. Explanations After Data Collection. After data are collected, counselors 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 take reasonable measures to avoid causing harm.

8. Agreements to Cooperate. Counselors who agree to cooperate with another individual in research or publication 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 give sponsors, institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. Counselors are 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 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 plan, conduct, and report research accurately and in a manner that minimizes the possibility that results will be misleading. They provide thorough discussions of the limitations of their data and alternative hypotheses. Counselors do not engage in fraudulent research, distort data, misrepresent data, or deliberately bias their results.

3. Obligation to Report Unfavorable Results. Counselors 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 are not withheld.

4. Identity of Subjects. Counselors who supply data, aid in the research of another person, report research results, or make original data available 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 are 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 are 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 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 is listed first and minor technical or professional contributions are 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 is listed as the principal author.

4. Duplicate Submission. Counselors 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 are not 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 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, Board of Examiners, LR 15:625 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

§2117. Resolving Ethical Issues

A. Knowledge of Standards

1. Counselors are 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 is not a defense against a charge of unethical conduct.

B. Suspected Violations

1. Ethical Behavior Expected. Counselors expect professional associates to adhere to Code of Ethics. When counselors possess reasonable cause that raises doubts as to whether a counselor is acting in an ethical manner, they take appropriate action.

2. Consultation. When uncertain as to whether a particular situation or course of action may be in violation of Code of Ethics, counselors 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 Code of Ethics, counselors specify the nature of such conflicts and express to their supervisors or other responsible officials their commitment to Code of Ethics. When possible, counselors work toward change within the organization to allow full adherence to Code of Ethics.

4. Informal Resolution. When counselors have reasonable cause to believe that another counselor is violating an ethical standard, they 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, 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 do 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 assist in the process of enforcing Code of Ethics. Counselors 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 are 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, Board of Examiners, LR 15:622 (August 1989), amended by the Licensed Professional Counselors Board of Examiners, LR 22:

Persons who wish to submit comments should write to: Eloise Brown, Ed.S, LPC, Board Chairman, LPC Board of Examiners, 8631 Summa Avenue, Suite A, Baton Rouge, LA 70809. Comments will be accepted through August 9, 1996. A public hearing will be held on these rules on Tuesday, August 27, 1996, 8 a.m. at the address listed above.

Eloise Brown, Ed.S., LPC
Board Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Code of Conduct

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Implementation costs will be \$1,200 in fiscal year 1996-97, zero in 1997-98 and 1998-99. No other costs or savings to other state agencies or local government units are anticipated.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections of other state or local governmental units due to this rule.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
It is anticipated that there will be no change in costs and/or economic benefits to directly affected persons or nongovernmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There could be marginal effect on competition in the private sector. Exempt private sector agencies and individuals are listed in R.S. 37:1113(1)-(6). All public sector employees are exempt from R.S. 37:1101-1115.
No effect on competition or employment is estimated.

Peter Emerson, Ed.D., LPC
Board Chair
9607#056

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

Sanitary Code—Mechanical Wastewater Treatment
(Chapter XIII)

In accordance with R.S. 40:4, 40:5, and the provisions of Chapter XIII of the State Sanitary Code, the State Health Officer is proposing that the following amendment to the listing entitled "Mechanical Wastewater Treatment Plants for Individual Homes—Acceptable Units" be made:

Amend the listing to include additional manufacturer and associated plant model specified as follows:

Manufacturer	Plant Designation	Rated Capacity
McGrew Construction Company, Inc.	"Jetaire"	
9591 Wallace Lake Road	500	500 gpd
Shreveport, LA 71106	750	750 gpd
(318) 688-4737	1000	1000 gpd

The specified change is in compliance with the

requirements set forth in Section 6.6 of Appendix A of Chapter XIII of the State Sanitary Code.

Comments regarding the proposed rule should be addressed to C. Russell Rader, P.E., Chief Engineer, Office of Public Health, Department of Health and Hospitals, Box 60630, New Orleans, LA 70160.

A review hearing will be held on August 21, 1996 at 1:30 p.m. in the First Floor Auditorium, Department of Transportation and Development Building, 1201 Capitol Access Road, Baton Rouge, LA to hear comments on the proposed rule.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Mechanical Wastewater Treatment

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no implementation costs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The consumer will be afforded a wider selection of products—thus enhancing competition and possibly resulting in reduced costs for the related products and services to the consumer.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
Competition will be stimulated by the presence of the new product. Effect of employment cannot be estimated.

Eric T. Baumgartner, M.D., M.P.H.
Assistant Secretary
9607#054

H. Gordon Monk
Chief Coordinator to the
Legislative Fiscal Office

NOTICE OF INTENT

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

Minimum Standards for Licensing Home Health Agencies
(LAC 48:I.Chapter 91)

The Department of Health and Hospitals, proposes to amend the following rule as authorized by R.S. 40:2009.31-40. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals last amended Minimum Standards for the Licensing of Home Health Agencies on February 20, 1995 and published in the *Louisiana Register*, Volume 21 Number 2. Due to legislative changes incorporated in Act 1252 of the 1995 Regular Session, the rule for licensing of home health agencies is being revised to update these standards in compliance with

Act 1252. These proposed revisions are included in the following sections: definitions; personnel; and licensing including initial, renewal, denial, suspension, revocation and nonrenewal of licenses. Section 9167.B regarding qualifications for alternate administrators has been proposed for deletion, and subsequent subsections have been recodified to reflect this change. In addition, the department is proposing changes concerning the qualifications of psychiatric nurses and the change of ownership provisions. The proposed change of ownership provision is an addition to the current definition section of the rule and the proposed change in the qualification requirements of the psychiatric nurse amends current requirements. Therefore, the Department of Health and Hospitals is proposing to incorporate these proposed revisions to the current rule "Minimum Standards for the Licensing of Home Health Agencies".

Title 48

PUBLIC HEALTH

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 91. Minimum Standards for Home Health Agencies

§9165. Definitions

* * *

Change of Ownership (CHOW)—the sale or transfer of all or a portion of the assets or other equity interest in a home health agency. Examples of actions which constitute a change of ownership with respect to a home health agency include:

1. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes change of ownership.
2. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute change of ownership.
3. Limited Liability Company. The removal, addition or substitution of a member in a limited liability company constitutes a change of ownership.
4. Partnership. In the case of a partnership, the removal, addition, or substitution, of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

* * *

Controlling Ownership or Controlling Interest—an equity or voting interest possessed by a person or entity that:

1. has a direct or indirect equity interest, equal to 5 percent or more, in the capital, the stock, or the profits of a home health agency; or
2. is an officer or director of a home health agency which is organized as a corporation; or
3. is a partner in a home health agency which is organized as a partnership; or
4. is a member or manager of a home health agency which is organized as a limited liability company.

The term *controlling ownership* is synonymous with the terms *controlling interest* or *control interest* as defined by the Health Care Financing Administration (HCFA) of the Federal Department of Health and Human Services (DHHS).

* * *

Home Health Agency Premises—the physical site where the home health agency maintains staff to perform administrative functions, and maintains its personnel records, or maintains its client service records, or holds itself out to the public as being a location for receipt of client referrals. The home health agency shall be a separate entity from any other entity or business or trade. If office space is shared with another health related entity the home health agency must operate separate and apart. The home health agency may not share office space with a non-health-related entity.

* * *

Home Health Aide Services—semi-skilled assistance by qualified personnel with activities of daily living provided to the patient who requires assistance in at least two areas of functioning and monitoring of vital signs, reporting to a professional under a written plan of care, and requiring clinical note for each patient visit.

* * *

Jurisdiction—all home health agencies shall be under the jurisdiction of the Department of Health and Hospitals, which shall provide the rules and regulations governing the operation of such agencies or organizations. However, nothing in this Part shall be construed to prohibit the delivery of personal care, homemaker, respite, and other in-home services by a person or entity not licensed under this rule unless provided with other home health services.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:

§9167. Personnel Qualifications/Responsibilities

A. *Administrator*—a person who is designated in writing and is administratively responsible and available for all aspects of facility operations. The administrator shall be appointed by, and shall answer directly to the governing body of the agency. The administrator and the director of nursing or the alternate director of nursing may be the same individual if dually qualified. If an administrator is designated for more than one agency then the administrator must designate an alternate that must be a full-time, on-site employee of only one agency who meets the qualifications of the administrator.

Note: Director of Nurses may never serve more than one agency.

1. Qualifications:

- a. licensed physician, registered nurse, or college graduate with bachelor's degree who has three years of management experience in health care delivery service; or
- b. a person who is not a registered nurse or who does not have a bachelor's degree may qualify by having three additional years of documented management experience in a health care delivery service.

2. Responsibilities. The administrator shall:

- a. be available in person or by telecommunication at all times for all aspects of facility operation;
- b. designate in writing an individual who meets administrator qualifications to assume the authority and the control of the agency if the administrator is unavailable;

- c. direct the operations of the agency;
- d. be responsible for compliance with all regulations, laws, policies and procedures applicable to home health and Medicare (when applicable) issues;
- e. employ qualified individuals and ensure adequate staff education and evaluations;
- f. ensure the accuracy of public information materials and activities;
- g. act as liaison between staff, the group of professional personnel, and the governing board;
- h. implement an ongoing accurate and effective budgeting and accounting system.

[Editorial Note: Section 9167.B regarding qualifications for alternate administrators has been proposed for deletion. Subsequent subsections have been recodified to reflect this change.]

B. *Advisory Board*—group of persons who meet with agency staff/owners as frequently as needed or as required below, but at least once every year, to evaluate the overall functions of the agency.

* * *

D. *Director of Nurses*—person designated in writing to supervise all aspects of patient care, all activities of professional staff and allied health personnel, and shall be responsible for compliance with regulatory requirements. The director of nurses must be a full-time, salaried employee of only one agency.

1. *Qualifications*. A registered nurse currently licensed to practice in the state of Louisiana with at least three years experience as a registered nurse. One of these years must consist of full-time experience in providing direct patient care in the home health setting.

* * *

E. *Alternate director of nurses* must have same qualifications, be designated in writing, and function in the capacity of director of nurses whenever the director of nurses is not on-site. At a minimum, the alternate director of nurses must be employed by the agency for no less than three days per week for a minimum of 20 hours per week during the customary hours of operation.

* * *

H *Licensed Practical Nurse*

* * *

1. *Qualifications*:

a. - b. ...

c. when employed with one or more agencies, must inform all employers and cooperate and coordinate to assure highest performance of quality when providing services to the beneficiary;

d. the LPN with a minimum of five years full-time home health experience may act as an operational consultant. The LPN is not qualified to serve as a consultant for patient care issues under any circumstances.

* * *

I. *Medical Social Services*

* * *

O. *Registered Nurse*

* * *

1. *Qualifications*:

a. - b. ...

c. when employed with one or more agencies, must inform all employers and cooperate and coordinate to assure highest performance of quality when providing services to the beneficiary.

d. Only RNs who have the following credentials shall make psychiatric nurse visits.

i. RN with a master's degree in psychiatric or mental health nursing.

ii. RN with a bachelor's degree in nursing with one year experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic.

iii. RN with a diploma or associate degree with two years' experience in an active treatment unit in a psychiatric or mental health hospital or outpatient clinic. Experience must have been within the last five years. If not, then documentation must support psychiatric retraining, or classes, or CEU's to update psychiatric knowledge.

e. Only RN's who meet the following criteria may provide consultation services to other HHAs:

i. must have three full-time years of home health experience as an RN;

ii. must not provide any consulting services simultaneously/concurrently with other duties at any home health agency.

* * *

P. *Speech Pathology Services*

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:

§9169. State Licensing

A. *Licensing Procedures for Initial Licensing*

1.a. - b. ...

c. submit a line of credit from a federally insured, licensed, lending agency for at least \$75,000 as proof of adequate finances to sustain an agency for at least six months;

d. submit proof of general and professional liability insurance of at least \$300,000. Submit proof of worker's compensation. The certificate holder shall be the Department of Health and Hospitals;

e. submit resumes' and documentation of qualifications for administrator/alternate and director of nurses/alternate. May not submit additional information after original resume is submitted for review, except for changes in the designated positions or with approval of the Health Standards section of the Department of Health and Hospitals;

f. ...

g. submit in writing any financial or familial relationship with any other entity providing home health care services in the state;

h. no application will be reviewed until payment of application fee. The agency must agree to become fully operational and prepared for initial survey within 90 days after payment of the application fee. If the agency is unable to do so, the application shall be considered closed and the agency shall be prohibited from submitting a new application for one year;

i. - m. ...

n. if initial survey reveals agency is not in substantial compliance, agency shall transfer patients and close immediately. However, if the noncompliance is determined by DHH to be of a nonserious nature and/or is not an immediate threat to the health and well-being of clients, then DHH may opt to issue a provisional license to the facility.

C. Issuance of a License. The licensing agency shall have authority to issue three licenses as described below:

3. Provisional license—may be issued to those existing agencies which do not meet criteria for full licensing, is valid for six months or until termination date and may be issued by the DHH for the following nonexclusive reasons:

a. more than five violations of minimum standards in a one-year period;

d. fails to correct deficiencies within sixty days of being cited;

g. has an owner, administrator, or director of nurses who has pled guilty or pled nolo contendere to, or been convicted of a felony, as shown by a certified copy of the record of the court of conviction, or if the applicant is a firm or corporation, when any of its members or officers, or the person designated to manage or supervise the home care, has been convicted of a felony, pled guilty or pled nolo contendere;

h. fails to notify the department, in writing, within thirty days of a change as provided in this Paragraph. Any notification of change shall be accompanied by the appropriate fee. No notification of change can be processed until the appropriate fee has been received by the department. A change shall include a change in any of the following:

- i. controlling ownership or management;
- ii. administrator/alternate;
- iii. director of nursing/alternate;
- iv. address/telephone number;
- v. hours of operation;
- vii. after hours contact procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:

§9173. Changes

D. The license shall not be relocated out of the geographic area for which it was originally issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:

§9177. Revocation or Denial of Renewal of License

B. The secretary of DHH may deny an application for a license, or refuse to renew a license or revoke a license in accordance with R.S. 2009.36 and 2009.37.

An agency license shall not be renewed and/or shall be revoked for any of the following:

B.1.a. - o. ...

p. cruelty to patients;

q. acceptance of a patient when the agency has insufficient capacity to provide care of that patient;

r. pleading guilty to, pleading nolo contendere to, or conviction of a felony by an owner, administrator, or director of nursing as shown by a certified copy of the record of the court of conviction, or if the applicant is a firm or corporation, when any of its member or officers, or the person designated to manage or supervise the home care, has been convicted of a felony.

Note: For purposes of this Paragraph "conviction of a felony" means and includes:

i. conviction of a criminal offense related to that person's involvement in any program under Medicare, Medicaid, or Title XX services program since the inception of those programs;

ii. conviction of a felony relating to violence, abuse, and/or neglect of a person;

iii. conviction of a felony related to the misappropriation of property belonging to another person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, amended LR 21:177 (February 1995), LR 22:

§9193. Clinical Records

D. Protection and Retention of All Records

1. Records are retained for five years from the date on which the record was made unless there is an audit or litigation affecting the records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.31-40.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed rule. A public hearing will be held on this matter at 9:30 a.m. Wednesday, August 21, 1996, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. of the day following the public hearing.

Bobby P. Jindal
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Home Health Agencies Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase program costs by approximately \$950 for SFY 1997 but no costs are anticipated for SFY 1998 and for SFY 1999.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of this rule will not impact federal revenue collections for any year as no federal funding is available for state licensing functions.

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 is no effect on competition and employment.

Thomas D. Collins
Director
9706#075

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

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

**Nursing Home Minimum Licensure Standards
(LAC 48:I.Chapters 97, 98, and 99)**

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to adopt the Nursing Home Minimum Licensure Standards rule as authorized by R.S. 40:2009.1-2116.4. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The purpose of the nursing home licensing law and requirements is to provide for the development, establishment, and enforcement of standards of care of individuals in nursing homes and for the construction, maintenance, and operation of nursing homes which will promote safe and adequate treatment of such individuals in nursing homes. Minimum standards for the licensing of nursing homes were last adopted in 1987 with the publication of these regulations as identified above under the *Louisiana Administrative Code*. Since that time there has been a tremendous expansion of federal regulations governing long term care. Therefore, the department is now proposing to establish new licensing regulations in order to assure that a high quality of care is provided to persons residing in nursing homes.

Due to an administrative error, this notice of intent was published in the June 1996 issue of the *Louisiana Register* with an incorrect public hearing date. This notice is being republished by reference so that the August 21 public hearing

date can be retained. The full text of these proposed regulations along with the fiscal and economic impact statement can be found in the June 20, 1996 *Louisiana Register*, Volume 22, Number 6, pages 477-501.

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 proposed rule. A public hearing will be held on this matter at 9:30 a.m. Wednesday, August 21, 1996, in the DOTD Auditorium, 1201 Capitol Access Road, Baton Rouge, LA. At that time all interested parties will be afforded an opportunity to submit data views or arguments, orally or in writing. The deadline for the receipt of all comments is 4:30 p.m. of the day following the public hearing.

Bobby P. Jindal
Secretary

9607#066

NOTICE OF INTENT

**Department of Insurance
Commissioner of Insurance**

Regulation 55—Life Insurance Illustrations

Under the authority of R.S. 22:3, and the Administrative Procedures Act, R.S. 49:950 et seq., the Department of Insurance gives notice that the following proposed regulation is to become effective January 1, 1997. This intended action complies with the statutory law administered by the Department of Insurance.

Regulation 55

Life Insurance Illustrations

Section 1. Purpose

The purpose of this regulation is to provide rules for life insurance policy illustrations that will protect consumers and foster consumer education. The regulation provides illustration formats, prescribes standards to be followed when illustrations are used, and specifies the disclosures that are required in connection with illustrations. The goals of this regulation are to ensure that illustrations do not mislead purchasers of life insurance and to make illustrations more understandable. Insurers will, as far as possible, eliminate the use of footnotes and caveats and define terms used in the illustration in language that would be understood by a typical person within the segment of the public to which the illustration is directed.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by Louisiana Revised Statutes (L.R.S.) Title 22, Section 3, and the Administrative Procedures Act, R.S. Title 49, Sections 950 et seq.

Section 3. Applicability and Scope

This regulation applies to all group and individual life insurance policies and certificates except:

- A. variable life insurance;
- B. individual and group annuity contracts;

- C. credit life insurance; or
- D. life insurance policies with no illustrated death benefits on any individual exceeding \$10,000.

Section 4. Definitions

For the purposes of this regulation:

A. *Actuarial Standards Board*—the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

B. *Contract Premium*—the gross premium that is required to be paid under a fixed premium policy, including the premium for a rider for which benefits are shown in the illustration.

C. *Currently Payable Scale*—a scale of non-guaranteed elements in effect for a policy form as of the preparation date of the illustration or declared to become effective within the next 95 days.

D. *Department*—the Louisiana Department of Insurance.

E. *Disciplined Current Scale*—a scale of non-guaranteed elements constituting a limit on illustrations currently being illustrated by an insurer that is reasonably based on actual recent historical experience, as certified annually by an illustration actuary designated by the insurer. Further guidance in determining the disciplined current scale as contained in standards established by the Actuarial Standards Board may be relied upon if the standards:

- (1) are consistent with all provisions of this regulation;
- (2) limit a disciplined current scale to reflect only actions that have already been taken or events that have already occurred;
- (3) do not permit a disciplined current scale to include any projected trends of improvements in experience or any assumed improvements in experience beyond the illustration date; and
- (4) do not permit assumed expenses to be less than minimum assumed expenses.

F. *Generic Name*—a short title descriptive of the policy being illustrated such as “whole life,” “term life” or “flexible premium adjustable life.”

G. *Guaranteed Elements and Non-guaranteed Elements*—

(1) *Guaranteed Elements*—the premiums, benefits, values, credits or charges under a policy of life insurance that are guaranteed and determined at issue.

(2) *Non-guaranteed Elements*—the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

H. *Illustrated Scale*—a scale of non-guaranteed elements currently being illustrated that is not more favorable to the policy owner than the lesser of:

- (1) the disciplined current scale; or
- (2) the currently payable scale.

I. *Illustration*—a presentation or depiction that includes non-guaranteed elements of a policy of life insurance over a period of years and that is one of the three types defined below:

(1) *Basic Illustration*—a ledger or proposal used in the sale of a life insurance policy that shows both guaranteed and non-guaranteed elements.

(2) *Supplemental Illustration*—an illustration furnished in addition to a basic illustration that meets the applicable requirements of this regulation, and that may be presented in a format differing from the basic illustration, but may only depict a scale of non-guaranteed elements that is permitted in a basic illustration.

(3) *In Force Illustration*—an illustration furnished at any time after the policy that it depicts has been in force for one year or more.

J. *Illustration Actuary*—an actuary meeting the requirements of Section 11 who certifies to illustrations based on the standard of practice promulgated by the Actuarial Standards Board.

K. *Lapse-supported Illustration*—an illustration of a policy form failing the test of self-supporting as defined in this regulation, under a modified persistency rate assumption using persistency rates underlying the disciplined current scale for the first five years and 100 percent policy persistency thereafter.

L. (1) *Minimum Assumed Expenses*—the minimum expenses that may be used in the calculation of the disciplined current scale for a policy form. The insurer may choose to designate each year the method of determining assumed expenses for all policy forms from the following:

(a) fully allocated expenses;

(b) marginal expenses; and

(c) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the department.

(2) Marginal expenses may be used only if greater than a generally recognized expense table. If no generally recognized expense table is approved, fully allocated expenses must be used.

M. *Non-term Group Life*—a group policy or individual policies of life insurance issued to members of an employer group or other permitted group where:

(1) every plan of coverage was selected by the employer or other group representative;

(2) some portion of the premium is paid by the group or through payroll deduction; and

(3) group underwriting or simplified underwriting is used.

N. *Policy Owner*—the owner named in the policy or the certificate holder in the case of a group policy.

O. *Premium Outlay*—the amount of premium assumed to be paid by the policy owner or other premium payer out-of-pocket.

P. *Self-supporting Illustration*—an illustration of a policy form for which it can be demonstrated that, when using experience assumptions underlying the disciplined current scale, for all illustrated points in time on or after the 15 policy anniversary or the 20 policy anniversary for second-or-later-to-die policies (or upon policy expiration if sooner), the accumulated value of all policy cash flows equals or exceeds the total policy owner value available. For this purpose, policy owner value will include cash surrender values and any other illustrated benefit amounts available at the policy owner's election.

Section 5. Policies to Be Illustrated

A. Each insurer marketing policies to which this regulation is applicable shall notify the department whether a policy form is to be marketed with or without an illustration. For all policy forms being actively marketed on the effective date of this regulation, the insurer shall identify in writing those forms and whether or not an illustration will be used with them. For policy forms filed after the effective date of this regulation, the identification shall be made at the time of filing. Any previous identification may be changed by notice to the department.

B. If the insurer identifies a policy form as one to be marketed without an illustration, any use of an illustration for any policy using that form prior to the first policy anniversary is prohibited.

C. If a policy form is identified by the insurer as one to be marketed with an illustration, a basic illustration prepared and delivered in accordance with this regulation is required, except that a basic illustration need not be provided to individual members of a group or to individuals insured under multiple lives coverage issued to a single applicant unless the coverage is marketed to these individuals. The illustration furnished an applicant for a group life insurance policy or policies issued to a single applicant on multiple lives may be either an individual or composite illustration representative of the coverage on the lives of members of the group or the multiple lives covered.

D. Potential enrollees of non-term group life subject to this regulation shall be furnished a quotation with the enrollment materials. The quotation shall show potential policy values for sample ages and policy years on a guaranteed and non-guaranteed basis appropriate to the group and the coverage. This quotation shall not be considered an illustration for purposes of this regulation, but all information provided shall be consistent with the illustrated scale. A basic illustration shall be provided at delivery of the certificate to enrollees for non-term group life who enroll for more than the minimum premium necessary to provide pure death benefit protection. In addition, the insurer shall make a basic illustration available to any non-term group life enrollee who requests it.

Section 6. General Rules and Prohibitions

A. An illustration used in the sale of a life insurance policy shall satisfy the applicable requirements of this regulation, be clearly labeled "life insurance illustration" and contain the following basic information:

- (1) name of insurer;
- (2) name and business address of producer or insurer's authorized representative, if any;
- (3) name, age and sex of proposed insured, except where a composite illustration is permitted under this regulation;
- (4) underwriting or rating classification upon which the illustration is based;
- (5) generic name of policy, the company product name, if different, and form number;
- (6) initial death benefit; and
- (7) dividend option election or application of non-guaranteed elements, if applicable.

B. When using an illustration in the sale of a life insurance policy, an insurer or its producers or other authorized

representatives shall not:

- (1) represent the policy as anything other than a life insurance policy;
- (2) use or describe non-guaranteed elements in a manner that is misleading or has the capacity or tendency to mislead;
- (3) state or imply that the payment or amount of non-guaranteed elements is guaranteed;
- (4) use an illustration that does not comply with the requirements of this regulation;
- (5) use an illustration that at any policy duration depicts policy performance more favorable to the policy owner than that produced by the illustrated scale of the insurer whose policy is being illustrated;
- (6) provide an applicant with an incomplete illustration;
- (7) represent in any way that premium payments will not be required for each year of the policy in order to maintain the illustrated death benefits, unless that is the fact;
- (8) use the term "vanish" or "vanishing premium," or a similar term that implies the policy becomes paid up, to describe a plan for using non-guaranteed elements to pay a portion of future premiums;
- (9) except for policies that can never develop nonforfeiture values, use an illustration that is "lapse-supported"; or
- (10) use an illustration that is not "self-supporting."

C. If an interest rate used to determine the illustrated non-guaranteed elements is shown, it shall not be greater than the earned interest rate underlying the disciplined current scale.

Section 7. Standards for Basic Illustrations

A. Format. A basic illustration shall conform with the following requirements:

- (1) The illustration shall be labeled with the date on which it was prepared.
- (2) Each page, including any explanatory notes or pages, shall be numbered and show its relationship to the total number of pages in the illustration (*e.g.*, the fourth page of a seven-page illustration shall be labeled "page 4 of 7 pages").
- (3) The assumed dates of payment receipt and benefit pay-out within a policy year shall be clearly identified.
- (4) If the age of the proposed insured is shown as a component of the tabular detail, it shall be issue age plus the numbers of years the policy is assumed to have been in force.
- (5) The assumed payments on which the illustrated benefits and values are based shall be identified as premium outlay or contract premium, as applicable. For policies that do not require a specific contract premium, the illustrated payments shall be identified as premium outlay.
- (6) Guaranteed death benefits and values available upon surrender, if any, for the illustrated premium outlay or contract premium shall be shown and clearly labeled guaranteed.
- (7) If the illustration shows any non-guaranteed elements, they cannot be based on a scale more favorable to the policy owner than the insurer's illustrated scale at any duration. These elements shall be clearly labeled non-guaranteed.
- (8) The guaranteed elements, if any, shall be shown before corresponding non-guaranteed elements and shall be specifically referred to on any page of an illustration that

shows or describes only the non-guaranteed elements (e.g., "see page one for guaranteed elements.")

(9) The account or accumulation value of a policy, if shown, shall be identified by the name this value is given in the policy being illustrated and shown in close proximity to the corresponding value available upon surrender.

(10) The value available upon surrender shall be identified by the name this value is given in the policy being illustrated and shall be the amount available to the policy owner in a lump sum after deduction of surrender charges, policy loans and policy loan interest, as applicable.

(11) Illustrations may show policy benefits and values in graphic or chart form in addition to the tabular form.

(12) Any illustration of non-guaranteed elements shall be accompanied by a statement indicating that:

(a) the benefits and values are not guaranteed;

(b) the assumptions on which they are based are subject to change by the insurer; and

(c) actual results may be more or less favorable.

(13) If the illustration shows that the premium payer may have the option to allow policy charges to be paid using non-guaranteed values, the illustration must clearly disclose that a charge continues to be required and that, depending on actual results, the premium payer may need to continue or resume premium outlays. Similar disclosure shall be made for premium outlay of lesser amounts or shorter durations than the contract premium. If a contract premium is due, the premium outlay display shall not be left blank or show zero unless accompanied by an asterisk or similar mark to draw attention to the fact that the policy is not paid up.

(14) If the applicant plans to use dividends or policy values, guaranteed or non-guaranteed, to pay all or a portion of the contract premium or policy charges, or for any other purpose, the illustration may reflect those plans and the impact on future policy benefits and values.

B. Narrative Summary. A basic illustration shall include the following:

(1) a brief description of the policy being illustrated, including a statement that it is a life insurance policy;

(2) a brief description of the premium outlay or contract premium, as applicable, for the policy. For a policy that does not require payment of a specific contract premium, the illustration shall show the premium outlay that must be paid to guarantee coverage for the term of the contract, subject to maximum premiums allowable to qualify as a life insurance policy under the applicable provisions of the Internal Revenue Code;

(3) a brief description of any policy features, riders or options, guaranteed or non-guaranteed, shown in the basic illustration and the impact they may have on the benefits and values of the policy;

(4) identification and a brief definition of column headings and key terms used in the illustration; and

(5) a statement containing in substance the following:

"This illustration assumes that the currently illustrated nonguaranteed elements will continue unchanged for all years shown. This is not likely to occur, and actual results may be more or less favorable than those shown."

C. Numeric Summary.

(1) Following the narrative summary, a basic illustration

shall include a numeric summary of the death benefits and values and the premium outlay and contract premium, as applicable. For a policy that provides for a contract premium, the guaranteed death benefits and values shall be based on the contract premium. This summary shall be shown for at least policy years five, ten and twenty and at age 70, if applicable, on the three bases shown below. For multiple life policies the summary shall show policy years five, ten, twenty and thirty.

(a) policy guarantees;

(b) insurer's illustrated scale;

(c) insurer's illustrated scale used but with the non-guaranteed elements reduced as follows:

(i) dividends at 50 percent of the dividends contained in the illustrated scale used;

(ii) non-guaranteed credited interest at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used; and

(iii) all non-guaranteed charges, including but not limited to, term insurance charges, mortality and expense charges, at rates that are the average of the guaranteed rates and the rates contained in the illustrated scale used.

(2) In addition, if coverage would cease prior to policy maturity or age 100, the year in which coverage ceases shall be identified for each of the three bases.

D. Statements. Statements substantially similar to the following shall be included on the same page as the numeric summary and signed by the applicant, or the policy owner in the case of an illustration provided at time of delivery, as required in this regulation.

(1) A statement to be signed and dated by the applicant or policy owner reading as follows:

"I have received a copy of this illustration and understand that any non-guaranteed elements illustrated are subject to change and could be either higher or lower. The agent has told me they are not guaranteed."

(2) A statement to be signed and dated by the insurance producer or other authorized representative of the insurer reading as follows:

"I certify that this illustration has been presented to the applicant and that I have explained that any non-guaranteed elements illustrated are subject to change. I have made no statements that are inconsistent with the illustration."

E. Tabular Detail.

(1) A basic illustration shall include the following for at least each policy year from one to ten and for every fifth policy year thereafter ending at age 100, policy maturity or final expiration; and except for term insurance beyond the 20th year, for any year in which the premium outlay and contract premium, if applicable, is to change:

(a) the premium outlay and mode the applicant plans to pay and the contract premium, as applicable;

(b) the corresponding guaranteed death benefit, as provided in the policy; and

(c) the corresponding guaranteed value available upon surrender, as provided in the policy.

(2) For a policy that provides for a contract premium, the guaranteed death benefit and value available upon surrender shall correspond to the contract premium.

(3) Non-guaranteed elements may be shown if described in the contract. In the case of an illustration for a policy on which the insurer intends to credit terminal dividends, they

may be shown if the insurer's current practice is to pay terminal dividends. If any non-guaranteed elements are shown they must be shown at the same durations as the corresponding guaranteed elements, if any. If no guaranteed benefit or value is available at any duration for which a non-guaranteed benefit or value is shown, a zero shall be displayed in the guaranteed column.

Section 8. Standards for Supplemental Illustrations

A. A supplemental illustration may be provided so long as:

- (1) it is appended to, accompanied by or preceded by a basic illustration that complies with this regulation;
- (2) the non-guaranteed elements shown are not more favorable to the policy owner than the corresponding elements based on the scale used in the basic illustration;
- (3) it contains the same statement required of a basic illustration that non-guaranteed elements are not guaranteed; and
- (4) for a policy that has a contract premium, the contract premium underlying the supplemental illustration is equal to the contract premium shown in the basic illustration. For policies that do not require a contract premium, the premium outlay underlying the supplemental illustration shall be equal to the premium outlay shown in the basic illustration.

B. The supplemental illustration shall include a notice referring to the basic illustration for guaranteed elements and other important information.

Section 9. Delivery of Illustrations and Record Retention

A. (1) If a basic illustration is used by an insurance producer or other authorized representative of the insurer in the sale of a life insurance policy and the policy is applied for as illustrated, a copy of that illustration, signed in accordance with this regulation, shall be submitted to the insurer at the time of policy application. A copy also shall be provided to the applicant.

(2) If the policy is issued other than as applied for, a revised basic illustration conforming to the policy as issued shall be sent with the policy. The revised illustration shall conform to the requirements of this regulation, shall be labeled "Revised Illustration" and shall be signed and dated by the applicant or policy owner and producer or other authorized representative of the insurer no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

B. (1) If no illustration is used by an insurance producer or other authorized representative in the sale of a life insurance policy or if the policy is applied for other than as illustrated, the producer or representative shall certify to that effect in writing on a form provided by the insurer. On the same form the applicant shall acknowledge that no illustration conforming to the policy applied for was provided and shall further acknowledge an understanding that an illustration conforming to the policy as issued will be provided no later than at the time of policy delivery. This form shall be submitted to the insurer at the time of policy application.

(2) If the policy is issued, a basic illustration conforming to the policy as issued shall be sent with the policy and signed no later than the time the policy is delivered. A copy shall be provided to the insurer and the policy owner.

C. If the basic illustration or revised illustration is sent to the applicant or policy owner by mail from the insurer, it shall include instructions for the applicant or policy owner to sign the duplicate copy of the numeric summary page of the illustration for the policy issued and return the signed copy to the insurer. The insurer's obligation under this subsection shall be satisfied if it can demonstrate that it has made a diligent effort to secure a signed copy of the numeric summary page. The requirement to make a diligent effort shall be deemed satisfied if the insurer includes in the mailing a self-addressed postage prepaid envelope with instructions for the return of the signed numeric summary page.

D. A copy of the basic illustration and a revised basic illustration, if any, signed as applicable, along with any certification that either no illustration was used or that the policy was applied for other than as illustrated, shall be retained by the insurer until three years after the policy is no longer in force. A copy need not be retained if no policy is issued.

Section 10. Annual Report; Notice to Policy Owners

A. In the case of a policy designated as one for which illustrations will be used, the insurer shall provide each policy owner with an annual report on the status of the policy that shall contain at least the following information:

(1) For universal life policies, the report shall include the following:

- (a) the beginning and end date of the current report period;
- (b) the policy value at the end of the previous report period and at the end of the current report period;
- (c) the total amounts that have been credited or debited to the policy value during the current report period, identifying each by type (e.g., interest, mortality, expense and riders);
- (d) the current death benefit at the end of the current report period on each life covered by the policy;
- (e) the net cash surrender value of the policy as of the end of the current report period;
- (f) the amount of outstanding loans, if any, as of the end of the current report period; and
- (g) for fixed premium policies:

If, assuming guaranteed interest, mortality and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect shall be included in the report; or

(h) for flexible premium policies:

If, assuming guaranteed interest, mortality and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect shall be included in the report.

(2) For all other policies, where applicable:

- (a) current death benefit;
- (b) annual contract premium;
- (c) current cash surrender value;
- (d) current dividend;
- (e) application of current dividend; and
- (f) amount of outstanding loan.

(3) Insurers writing life insurance policies that do not build nonforfeiture values shall only be required to provide an annual report with respect to these policies for those years when a change has been made to nonguaranteed policy elements by the insurer."

B. If the annual report does not include an in force illustration, it shall contain the following notice displayed prominently: "Important Policy Owner Notice: You should consider requesting more detailed information about your policy to understand how it may perform in the future. You should not consider replacement of your policy or make changes in your coverage without requesting a current illustration. You may annually request, without charge, such an illustration by calling [insurer's phone number], writing to [insurer's name] at [insurer's address] or contacting your agent. If you do not receive a current illustration of your policy within 30 days from your request, you should contact your state insurance department." The insurer may vary the sequential order of the methods for obtaining an in force illustration.

C. Upon the request of the policy owner, the insurer shall furnish an in force illustration of current and future benefits and values based on the insurer's present illustrated scale. This illustration shall comply with the requirements of Sections 6.A, 6.B, 7.A and 7.E. No signature or other acknowledgment of receipt of this illustration shall be required.

D. If an adverse change in non-guaranteed elements that could affect the policy has been made by the insurer since the last annual report, the annual report shall contain a notice of that fact and the nature of the change prominently displayed.

Section 11. Annual Certifications

A. The board of directors of each insurer shall appoint one or more illustration actuaries.

B. The illustration actuary shall certify that the disciplined current scale used in illustrations is in conformity with the Actuarial Standard of Practice for Compliance with the NAIC Model Regulation on Life Insurance Illustrations promulgated by the Actuarial Standards Board, and that the illustrated scales used in insurer-authorized illustrations meet the requirements of this regulation.

C. The illustration actuary shall:

(1) be a member in good standing of the American Academy of Actuaries;

(2) be familiar with the standard of practice regarding life insurance policy illustrations;

(3) not have been found by the department, following appropriate notice and hearing, to have:

(a) violated any provision of, or any obligation imposed by, the insurance law or other law in the course of his or her dealings as an illustration actuary;

(b) been found guilty of fraudulent or dishonest practices;

(c) demonstrated his or her incompetence, lack of cooperation, or untrustworthiness to act as an illustration actuary; or

(d) resigned or been removed as an illustration actuary within the past five years as a result of acts or omissions indicated in any adverse report on examination or as a result

of a failure to adhere to generally acceptable actuarial standards;

(4) promptly notify the department of any action taken by a department of another state similar to that under Paragraph (3) above;

(5) disclose in the annual certification whether, since the last certification, a currently payable scale applicable for business issued within the previous five years and within the scope of the certification has been reduced for reasons other than changes in the experience factors underlying the disciplined current scale. If nonguaranteed elements illustrated for new policies are not consistent with those illustrated for similar in force policies, this must be disclosed in the annual certification. If nonguaranteed elements illustrated for both new and in force policies are not consistent with the nonguaranteed elements actually being paid, charged or credited to the same or similar forms, this must be disclosed in the annual certification; and

(6) disclose in the annual certification the method used to allocate overhead expenses for all illustrations:

(a) fully allocated expenses;

(b) marginal expenses; or

(c) a generally recognized expense table based on fully allocated expenses representing a significant portion of insurance companies and approved by the department.

D. (1) The illustration actuary shall file a certification with the board and with the department:

(a) annually for all policy forms for which illustrations are used; and

(b) before a new policy form is illustrated.

(2) If an error in a previous certification is discovered, the illustration actuary shall notify the board of directors of the insurer and the department promptly.

E. If an illustration actuary is unable to certify the scale for any policy form illustration the insurer intends to use, the actuary shall notify the board of directors of the insurer and the department promptly of his or her inability to certify.

F. A responsible officer of the insurer, other than the illustration actuary, shall certify annually:

(1) that the illustration formats meet the requirements of this regulation and that the scales used in insurer-authorized illustrations are those scales certified by the illustration actuary; and

(2) that the company has provided its agents with information about the expense allocation method used by the company in its illustrations and disclosed as required in Subsection C(6) of this Section.

G. The annual certifications shall be provided to the department each year by a date determined by the insurer.

H. If an insurer changes the illustration actuary responsible for all or a portion of the company's policy forms, the insurer shall notify the department of that fact promptly and disclose the reason for the change.

Section 12. Severability

If any provision of this regulation or its application to any person or circumstance is for any reason held to be invalid by any court of law, the remainder of the regulation and its application to other persons or circumstances shall not be affected.

Section 13. Effective Date

This regulation shall become effective January 1, 1997 and shall apply to policies sold on or after the effective date.

A public hearing on this proposed regulation will be held on August 26, 1996 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, Lester Dunlap, Assistant Commissioner, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-5415. Comments will be accepted through the close of business at 4:30 p.m., August 26, 1996.

James H. "Jim" Brown
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 55-Life Insurance Illustrations

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. Any new duties imposed upon the department by this proposed regulation would be handled by existing personnel.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Adoption of this proposed amendment will not have any effect on revenue collections by the local governmental units. No provisions in the proposed regulation call for fines or other fees; therefore, there would be no additional revenue generated for the state.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is possible that this proposed amendment could impose additional costs on insurers; however, there is insufficient data available to determine the amount of such cost, if any.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that adoption of this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9607#073

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Insurance Commissioner of Insurance

Regulation 60—Life Insurance Advertising

Under the authority of R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Insurance gives notice that the following regulation is to become effective January 1, 1997. This intended action

complies with the statutory law administered by the Department of Insurance.

Regulation 60

Rules Governing the Advertising of Life Insurance

Section 1. Purpose

The purpose of this regulation is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts.

Section 2. Authority

This regulation is promulgated by the Department of Insurance under the authority granted by R.S. 22:3, and the Administrative Procedure Act, R.S. 49:950 et seq.

Section 3. Definitions

For the purpose of these rules:

A. *Advertisement*—material designed to create public interest in life insurance or annuities or in an insurer, or in an insurance producer; or to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace, or retain a policy including:

(1) printed and published material, audiovisual material, and descriptive literature of an insurer or insurance producer used in direct mail, newspapers, magazines, radio and television scripts, billboards and similar displays;

(2) descriptive literature and sales aids of all kinds, authored by the insurer, its insurance producers, or third parties, issued, distributed or used by such inter or insurance producer; including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters;

(3) material used for the recruitment, training, and education of an insurer's insurance producers which is designed to be used or is used to include the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy;

(4) prepared sales talks, presentations and material for use by insurance producers.

B. *Advertisement*—for the purpose of these rules shall not include:

(1) communications or materials used within an insurer's own organization and not intended for dissemination to the public;

(2) communications with policyholders other than material urging policyholders to purchase, increase, modify, reinstate or retain a policy;

(3) a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged; provided the announcement clearly indicates that it is preliminary to the issuance of a booklet explaining the proposed coverage.

C. *Department* or *Department of Insurance*—the Louisiana Department of Insurance.

D. *Insurance Producer*—a person who solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance for risks residing, located, or intended for issuance in this state.

E. *Insurer*—any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's,

fraternal benefit society, and any other legal entity which is defined as an *insurer* in the Louisiana Insurance Code or issues life insurance or annuities in this state and is engaged in the advertisement of a policy.

F. *Policy*—any policy, plan, certificate, including a fraternal benefit certificate, contract, agreement, statement of coverage, rider or endorsement which provides for life insurance or annuity benefits.

G. *Nonguaranteed Policy Elements*—the premiums, benefits, values, credits or charges under a policy of life insurance that are not guaranteed or not determined at issue.

H. *Preneed Funeral Contract or Prearrangement*—an agreement by or for an individual before the individual's death relating to the purchase or provision of specific funeral or cemetery merchandise or services.

Section 4. Applicability

A. These rules shall apply to any life insurance or annuity advertisement intended for dissemination in this state.

B. Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer.

Section 5. Form and Content of Advertisements

A. Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive.

Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Department of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

B. No advertisement shall use the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under such circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of such policy to believe that he will receive, or that it is possible that he will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

Section 6. Disclosure Requirements

A. The information required to be disclosed by these rules shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

B. No advertisement shall omit material information or use words, phrases, statements, references or illustrations if such omission or such use has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made

available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

C. In the event an advertisement uses "Non-Medical," "No Medical Examination Required," or similar terms where issue is not guaranteed, such items shall be accompanied by a further disclosure of equal prominence and in juxtaposition thereto to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

D. An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.

E. An advertisement shall prominently describe the type of policy advertised.

F. An advertisement of an insurance policy marketed by direct response techniques shall not state or imply that because there is no insurance producer or commission involved there will be a cost saving to prospective purchasers unless such is the fact. No such cost savings may be stated or implied without justification satisfactory to the Department of Insurance prior to use.

G. An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such fact shall be prominently disclosed. An advertisement of or for a life insurance policy under which the death benefit varies with the length of time the policy has been in force shall accurately describe and clearly call attention to the amount of minimum death benefit under the policy.

H. An advertisement for the types of policies described in (F) and (G) of this Section shall not use the words "inexpensive," "low cost," or other phrase or words of similar import when such policies are being marketed to persons who are 50 years of age or older, where the policy is guaranteed issue.

I. Premiums

(1) An advertisement for a policy with nonlevel premiums shall prominently describe the premium changes.

(2) An advertisement in which the insurer describes a policy where it reserves the right to change the amount of the premium during the policy term, but which does not prominently describe this feature, is deemed to be deceptive and misleading and is prohibited.

(3) An advertisement shall not contain a statement or representation that premiums paid for a life insurance policy can be withdrawn under the terms of the policy. Reference may be made to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. Reference may also be made to withdrawal rights under any unconditional premium refund offer.

(4) An advertisement which represents a pure endowment benefit as a "profit" or "return" on the premium paid rather than as a policy benefit for which a specific

premium is paid is deemed to be deceptive and misleading and is prohibited.

J. Analogies between a life insurance policy's cash values and savings accounts or other investments and between premium payments and contributions to savings accounts or other investments must be complete and accurate.

K. An advertisement shall not state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

L. If nonforfeiture values are shown in any advertisement, the values must be shown either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

M. The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service being made available with a policy unless true. If there is no charge to the insured, then the identity of the payor must be prominently disclosed. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the premium or use other appropriate language.

N. No insurance producer may use terms such as "financial planner," "investment advisor," "financial consultant," or "financial counseling" in such a way as to imply that he or she is generally engaged in an advisory business in which compensation is unrelated to sales unless such actually is the case.

O. Nonguaranteed Policy Elements

(1) An advertisement shall not utilize or describe nonguaranteed policy elements in a manner which is misleading or has the capacity or tendency to mislead.

(2) An advertisement shall not state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If nonguaranteed policy elements are illustrated, they must be based on the insurer's illustrated scale and the illustration must contain a statement to the effect that they are not to be construed as guarantees or estimates of amounts to be paid in the future.

(3) An advertisement that includes any illustrations or statements containing or based upon nonguaranteed elements shall set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed elements.

(4) If an advertisement refers to any nonguaranteed policy element, it shall indicate that the insurer reserves the right to change any such element at any time and for any reason. However, if an insurer has agreed to limit this right in any way; such as, for example, if it has agreed to change these elements only at certain intervals or only if there is a change in the insurer's current or anticipated experience, the advertisement may indicate any such limitation on the insurer's right.

(5) An advertisement shall not refer to dividends as "tax free" or use words of similar import, unless the tax treatment of dividends is fully explained and the nature of the dividend as a return of premium is indicated clearly.

P. An advertisement shall not state that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

O. Testimonials, Appraisals, Analysis, or Endorsements by Third Parties

(1) Testimonials, appraisals or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the policy advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective insureds as to the nature or scope of the testimonial, appraisal, analysis or endorsement. In using testimonials, appraisals or analysis; the insurer or insurance producer makes as its own all of the statements contained therein, and such statements are subject to all the provisions of these rules.

(2) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, such fact shall be prominently disclosed in the advertisement.

(3) An advertisement shall not state or imply that an insurer or a policy has been approved or endorsed by a group of individuals, society, association or other organization unless such is the fact and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the insurer, or receives any payment or other consideration from the insurer for making such endorsement or testimonial, such fact shall be disclosed in the advertisement.

R. An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts. The source of any such statistics used in an advertisement shall be identified therein.

S. Policies Sold to Students

(1) The envelope in which insurance solicitation material is contained may be addressed to the parents of students. The address may not include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless such is a correct and truthful statement.

(2) All advertisements including but not limited to informational flyers used in the solicitation of insurance must be identified clearly as coming from an insurer or insurance producer, if such is the case, and these entities must be clearly identified as such.

(3) The return address on the envelope may not imply that the soliciting insurer or insurance producer is affiliated with university, college, school or other educational or training institution, unless true.

T. Introductory, Initial or Special Offers and Enrollment Periods

(1) An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory,

initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(2) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy.

(3) An advertisement shall not offer a policy which utilizes a reduced initial premium rate in a manner which overemphasizes the availability and the amount of the reduced initial premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, all references to the reduces initial premium shall be followed by an asterisk or other appropriate symbol which refers the reader to that specific portion of the advertisement which contains the full rate schedule for the policy being advertised.

(4) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than six months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period. The advertisement shall specify the date by which the applicant must mail the application which shall be not less than 10 days and not more than 40 days from the date on which such enrollment period is advertised for the first time. This rule applies to all advertising media—i.e., mail, newspapers, radio, television, magazines and periodicals—by any one insurer or insurance producer. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of an termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been sent to the applicant in response to his request. It is also inapplicable to solicitations of employees or members of a particular group or association which otherwise would be eligible under specified provisions of the Louisiana Insurance Code for group, blanket or franchise insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

U. An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class, group, or quasi-group and as such enjoy special rates, dividends or underwriting privileges, unless such is the fact.

V. An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends or rates of other insurers. An advertisement shall not disparage other insurers,

insurance producers, policies, services or methods of marketing.

W. For individual deferred annuity products or deposit funds, the following shall apply:

(1) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher interest rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than three months subsequent to the date of declaration.

(2) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and the net premiums.

(3) If any contract does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning such contract shall prominently state that cash surrender benefits are not provided.

X. An advertisement of a life insurance product and an annuity as a single policy or life insurance policy with an annuity rider shall include the following disclosure or substantially similar statement at the point of sale before the application is taken; provided, however, if the policy contains an unconditional refund provision of at least 10 days, then the disclosure statement shall be delivered with or prior to the delivery of the policy, or upon the applicant's request, whichever occurs sooner. The disclosure shall include the first five policy years, the tenth and twentieth policy years at least one age form 60 to 70 and the scheduled commencement of annuity payments:

Year	Gross Annual Life %	Premium Annuity %	Guaranteed Cash Value of Annuity
1	%	%	\$
2	%	%	\$
3	%	%	\$
4	%	%	\$
5	%	%	\$
10	%	%	\$
20	%	%	\$
etc.	%	%	\$

Information in the disclosure statement shall be based on gross premium. The life and annuity percentages of the total gross premium shall equal 100 percent for each required duration. The guaranteed cash value of the annuity shall be the value at the end of the contract year. A copy of the disclosure statement shall be provided to the applicant.

Y. An advertisement for the solicitation or sale of a preneed funeral contract or prearrangement as defined in Section 3(H) above which is funded or to be funded by a life insurance policy or annuity contract shall adequately disclose the following:

(1) the fact that a life insurance policy or annuity contract is involved or being used to fund a prearrangement as defined in Section 3(H) of these rules, and

(2) the nature of the relationship among the soliciting agent or agents, the provider of the funeral or cemetery merchandise or services, the administrator and any other person.

Section 7. Identity of Insurer

A. The name of the insurer shall be clearly identified in all advertisements, and if any specific individual policy is advertised it shall be identified either by form number or other appropriate description. If an application is a part of the advertisement, the name of the insurer shall be shown on the application. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device or reference without disclosing the name of the insurer, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the insurer or create the impression that a company other than the insurer would have any responsibility for the financial obligation under a policy.

B. No advertisement shall use any combination of words, symbols or physical materials which by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

Section 8. Jurisdictional Licensing and Status of Insurer

A. An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

B. An advertisement may state that an insurer or insurance producer is licensed in the state where the advertisement appears, provided it does not exaggerate such fact or suggest or imply that competing insurers or insurance producers may not be so licensed.

C. An advertisement shall not create the impression that the insurer, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by an governmental entity. However, where a governmental entity has recommended or endorsed a policy form or plan, such fact may be stated if the entity authorizes its recommendation or endorsement to be used in an advertisement.

Section 9. Statements About the Insurer

An advertisement shall not contain statements, pictures or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation.

Section 10. Enforcement Procedures

A. Each insurer shall maintain at its home or principal office a complete file containing a specimen copy of every printed, published or prepared advertised of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by this department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on the examination of the insurer, whichever is the longer period of time.

B. If the department determines that an advertisement has the capacity or tendency to mislead or deceive the public, the department may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use.

C. Each insurer subject to the provisions of these rules shall file with this department with its annual statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by or on behalf of the insurer in this state during the preceding statement year, or during the portion of such year when these rules were in effect, complied or were made to comply in all respects with the provisions of these rules and the insurance laws of this state as implemented and interpreted by these rules.

Section 11. Conflict With Other Rules

It is not intended that these rules conflict with or supersede any rules currently in force or subsequently adopted in this state governing specific aspect of the sale or replacement of life insurance including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of these rules.

Section 12. Severability

If any Section, term or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other Section, term or provision of this rule, and the remaining Sections, terms and provisions shall be and remain in full force and effect.

Section 13. Effective Date

This regulation shall become effective January 1, 1997 and shall apply to any life insurance or annuity advertisement intended for dissemination in this state on or after the effective date.

A public hearing on this proposed regulation will be held on August 26, 1996 in the Plaza Hearing Room of the Insurance Building located at 950 North Fifth Street, Baton Rouge, LA, at 9:30 a.m. All interested persons will be afforded an opportunity to make comments.

Interested persons may submit oral or written comments to, Lester Dunlap, Assistant Commissioner, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-5415. Comments will be accepted through the close of business at 4:30 p.m., August 26, 1996.

James H. "Jim" Brown
Commissioner of Insurance

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 60-Full and Truthful Disclosure in
Advertising Life Insurance Policies**

**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. Any new duties imposed upon the department by this proposed regulation would be handled by existing personnel.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

Adoption of this proposed amendment will not have any effect on revenue collections by the local governmental units. No provisions in the proposed regulation call for fines or other fees; therefore, there would be no additional revenue generated for the state.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

It is possible that this proposed amendment could impose additional costs on insurers; however, there is insufficient data available to determine the amount of such costs, if any.

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

It is not anticipated that adoption of this proposed regulation would have any effect on employment or competition.

Brenda St. Romain
Assistant Commissioner
Management and Finance
9607#072

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Capital Area Ground Water Conservation Commission
Capital Area District**

Water Well Permits

Under authority of R.S. 38:3071 et seq. (Act 1974, Number 678, as amended by Act 1976, Number 231, and Act 1980, Number 738.) the Capital Area Ground Water Conservation Commission gives notice that the rulemaking procedures have been initiated to require a water well drilling permit. Section 3076 of the Act gives the Board of Commissioners authority to require permits for the drilling or construction of wells having a capacity in excess of 50,000 gallons per day in the Capital Area District including the Parishes of East Baton Rouge, West Baton Rouge, East Feliciana, West Feliciana,

and Pointe Coupee. Exemptions will be granted to small capacity wells designed to pump less than 50,000 gallons per day; wells screened at depths less than 400 feet; wells screened in the Mississippi River alluvial aquifer; and wells drilled for agricultural purposes.

The proposed regulation will assess no fee for a well permit. The agency will absorb any expenses incurred during the review, approval, and oversight of the well drilling activities. The purpose is to ensure that the drilling and construction of the water well will not adversely affect the ground water in the Capital Area Ground Water Conservation District.

Section 3076. Powers of the Board

A. The board shall have authority to do all things necessary to prevent waste of groundwater resources, and to prevent or alleviate damaging or potentially damaging subsidence of the land surface caused by withdrawal of groundwater within the district. The board shall have authority to do, as required, the following:

(2) To require permits for the drilling or construction of all wells drilled after the effective date of this part having a capacity in excess of 50,000 gallons per day.

Proposed Rule

Water Well Permits and Plans

Authority and Purpose

The Capital Area Ground Water Conservation Commission (hereafter referred to as the commission) has the authority to require permits and plans for the drilling or construction of water wells having a capacity in excess of 50,000 gallons per day, in accordance with R.S. 38:3076(A)(2) and 3076(E). The purpose of this rule is to define the procedures to be used in applying for a permit.

Exempt Wells

Wells in the following categories are exempt from the requirement for permits:

1. wells completed in the Mississippi River alluvial aquifer;
2. wells completed at depths less than 400 feet;
3. wells drilled for agricultural purposes; and
4. wells not capable of producing 50,000 gallons per day.

Large-capacity wells in categories 1 and 3, above, may be requested to supply plans and (or) information that the board may reasonably require to accomplish its water management purposes.

Applicability of Requirement for Permits and Plans

Permits are required for all nonexempt wells drilled in the parishes of East Baton Rouge, East Feliciana, Pointe Coupee, West Baton Rouge, West Feliciana, and any other parishes that may be admitted to the Capital Area Ground Water Conservation District. The permit application for the proposed well shall be accompanied by a set of plans to include at a minimum: location of proposed well to the nearest second of latitude and longitude; location of existing water wells within 1000 feet; proposed depth; casing and screen sizes and approximate depths; proposed well yield and average daily pumpage.

When a Permit is Required

At least 30 calendar days before beginning drilling operations, the well owner (or his agent) who plans to drill a

nonexempt well shall submit a permit application to the Capital Area Ground Water Conservation Commission for review and approval. No fee will be required.

Effective Date

The effective date for these rules and regulations shall be July 20, 1996. Permit applications can be obtained from and completed forms should be submitted to the Capital Area Ground Water Conservation Commission at 3535 South Sherwood Forest Blvd., Suite 129, Baton Rouge, LA 70816-2255, telephone (504)293-7370.

Failure to Comply

Violation of this rule may subject the owner or user to litigation. In any such suit, the board may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and preliminary injunctions as the facts warrant, as provided in R.S. 30:3077(C).

Revocation of Previous Rules

Upon the effective date of these rules, Section 5.0.0.0, Rules and Regulations Requiring the Submission of Plans for New Water Wells in the Capital Area Ground Water Conservation District becomes null and void.

Interested persons may submit written comments on the proposed rule until 5 p.m., August 20, 1996, to: Don C. Dial, Director, Capital Area Ground Water Conservation Commission, 3535 S. Sherwood Forest Boulevard, Baton Rouge, LA 70816 or by calling (504) 293-7370.

Don C. Dial
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Water Well Permits

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No costs or savings to local governmental units are anticipated. No significant implementation costs to the state are expected.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No fee will be charged for a water well permit. An estimate by the Capital Area Ground Water Conservation Commission of the number of water wells drilled for the past five years indicates an average of 10 or less nonexempt wells would be permitted per year. There would 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)
No additional preparation costs would be incurred because present rules call for plans to be submitted for proposed water wells.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
No adverse effect on competition and employment is expected.

Don C. Dial
Director
9607#020

H. Gordon Monk
Chief Coordinator of the
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Board of Private Security Examiners

Definitions, Organization, Board Membership, Training,
Investigations (LAC 46:LIX.Chapters 1-8)

Under the authority of the Private Security Regulatory and Licensing Law, R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the executive secretary gives notice that rulemaking procedures have been initiated to amend the Board of Private Security Examiners regulations, LAC 46:LIX:Chapters 1-8 as follows:

Title 46

Part LIX. Private Security Examiners

Chapter 1. Definitions, Organization, Board Membership and General Provisions

§101. Definitions

A. - B. ...

C. *Emergency Assignment*—any unplanned or unexpected event not covered by a prior contractual agreement.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:189 (February 1992), LR 22:

§103. Organization, Board Membership and General Provisions

A - I. ...

J. Meetings shall be announced and held in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.), and the Open Meetings Law (R.S. 42:4.2 et seq.).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:189 (February 1992), LR 22:

Chapter 2. Company Licensure

§201. Qualifications and Requirements for Company Licensure

A. - E.5. ...

6. A certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured.

E.7. - J.4. ...

K. Insurance Renewal. On or before the expiration date of the required general liability insurance policy, licensee shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse in coverage.

L.1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR

13:751 (December 1987), amended LR 15:846 (October 1989), LR 18:190 (February 1992), LR 22:

Chapter 3. Security Officer Registration

§301. Qualifications and Requirements for Security Officer Registration

A. An applicant for security officer registration shall meet all of the qualifications and requirements specified in R.S. 37:3283 in addition to the rules herein.

B. An applicant for security officer registration shall meet all of the qualifications of a licensee as defined in R.S. 37:3276, except:

1. the applicant may be a resident alien;
2. the applicant must be at least 18 years of age if registered unarmed, or if registered to carry a baton;
3. the applicant must be at least 21 years of age if registered armed.

C. Any person who performs the functions and duties of a security officer shall fill out and file with the board an application form provided and approved by the board. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

D.1. - 2. ...

3. non-refundable application fee and fingerprint processing fee;

4. if applicant has worked less than 20 calendar days, documentation must nevertheless be submitted, but without the required fees if a termination form is included showing the dates worked.

E. Applicant must sign the application to certify that the information he is providing the board is correct.

F. - J.1. ...

2. Each company a security officer is employed with shall submit an application marked "dual registration" with the required application fee. The application must be either postmarked or received in the board office within 20 calendar days of the applicant's date of hire.

3. ...

K.1 - 4.f. ...

5. If a registration card is lost or mutilated, registrant is responsible. A \$10 fee will be assessed to issue a replacement card and registrant shall submit in writing to the board his name, social security number, registration card number and circumstances surrounding loss or mutilation of card.

K.6. - M.2. ...

N. Emergency Assignment

1. Unarmed security officers may work emergency assignments a maximum of 20 calendar days within a six month consecutive period.

2. Registration requirements set forth in §301.D.4 apply.

3. Armed security officers must be registered with the board and have received all firearms training prior to working an armed post.

O. - P.1. ...

2. If registrant terminates employment with one employer and is reemployed within 30 calendar days in the same classification, the new employer, within 10 days of such reemployment, shall submit to the board a notice of the change on a form prescribed by the board, together with a

transfer fee paid by the new employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 15:11 (January 1989), LR 15:846 (October 1989), LR 18:191 (February 1992), LR 22:

Chapter 4. Training

§403. Classroom Training

A. - C. ...

D. All scores of such examinations must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed training verification form signed by the licensed instructor within 30 calendar days from completion of training.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 13:751 (December 1987), amended LR 18:192 (February 1992), LR 22:

§405. Firearms Training

A. Armed security officers, in addition to the training requirements outlined in R.S. 37:3284 and in the rules herein, shall complete 12 hours of firearms training and range qualifications by a board-licensed firearms instructor prior to working an armed assignment. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 30 calendar days from completion of training.

B. - C. ...

D. Annual refresher firearms training is due one year from the date of the last firearms training recorded at the board office. The anniversary date will not change if the training is taken within 30 days prior to said date.

E.1. - 3. ...

F. Handgun Proficiency Course. The handgun proficiency course shall have the following requirements:

1. a score of 75 percent required to qualify, 188 points out of 250 points;

2. an approved standard police or security firearms target shall be used;

3. the caliber weapon trained with must be the same caliber weapon the security officer carries while on duty;

4. the handgun course of fire shall be:

a. at a distance of four yards:

i. 12 shots, unsupported, point shooting, without sights: 45 seconds;

(a.) six shots, strong hand only;

(b.) six shots, weak hand only;

b. at a distance of seven yards:

i. two shots, unsupported, two-handed with sights: 5 seconds (indexing these rounds);

ii. 12 shots, unsupported, two-handed with sights: 60 seconds;

iii. 12 shots, unsupported, two-handed point shooting: 60 seconds

c. at a distance of 15 yards:

- i. 12 shots, barricade, strong hand: 60 seconds;
- ii. 12 shots, barricade, two handed with sights: 60 seconds;

- (a). six shots, standing right barricade;
- (b). six shots, standing left barricade.

G.1. - 3. ...

H. Shotgun Proficiency Course. The shotgun proficiency course shall have the following requirements:

1. ...

2. The shotgun course of fire shall be:

a. five rounds of buckshot (nine pellets only); 60 percent required to qualify out of 90 points possible on a NRA B-27 target. B-29 target may be used for 25 yards or 15 yards;

b. scoring: two points for each hit within the seven ring. One point for each hit outside the seven ring, in the black;

c. at a distance of 15 yards; two rounds, standing from the shoulder: 10 seconds;

d. at a distance of 25 yards; two rounds total from the shoulder; one round standing, two rounds kneeling. Time includes loading time with the shotgun starting from the "cruiser-safe" position (chamber empty, magazine loaded, safety on): 20 seconds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:192 (February 1992), amended LR 22:

§407. Baton Training

A. - D. ...

E. Security officers trained in baton must successfully pass a written examination administered by a board-licensed baton instructor and achieve a minimum passing score of 70 percent. Examination scores must be recorded and submitted to the board by the licensee or employer, as the case may be, on its prescribed verification form signed by the licensed instructor within 30 calendar days from completion of training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:193 (February 1992), amended LR 22:

§409. Instructor Requirements, Responsibilities and Liability

A. The board shall collect the following instructor fees pursuant to R.S. 37:3286:

1. - 10. ...

B. ...

C. Instructor Responsibilities and Liability

1. An inhouse instructor who is covered under his employer's company insurance policy shall be required to have his employer submit a letter to the board stating that he is covered under the company policy for the teaching of security officers. If not covered under a company insurance policy, an instructor must provide a certificate of general public liability insurance in an amount as required by law with the state of Louisiana named as an additional insured.

C.2. - D.2. ...

E. Insurance Renewal. On or before the expiration date of the general liability insurance policy, instructor shall submit to the board a new certificate of insurance in an amount as required by law showing that insurance has been renewed and there has not been any lapse of coverage.

F. - G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:194 (February 1992), amended LR 22:

Chapter 8. Licensee Suitability, Records, Investigations and Registrant Violations

§805. Investigations

A. ...

B. An investigation conducted by a duly-authorized representative of the board is not to be construed as an inspection of files as described in §803.C hereof. It is an investigation of alleged violations by a licensee or registrant as a result of a complaint, and is exempt from written and verbal notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), amended LR 22:

§807. Violations by Registrants

A.1. - 2. ...

3. failure to affix a photograph of registrant, taken within the last six months, to registration card;

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3270 et seq.

HISTORICAL NOTE: Promulgated by Department of Public Safety and Corrections, Board of Private Security Examiners, LR 18:195 (February 1992), amended LR 22:

These proposed regulations are to become effective upon publication as final rules in the *Louisiana Register*.

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than August 20, 1996, at 4:30 p.m. to Wayne R. Rogillio, Executive Secretary, Louisiana State Board of Private Security Examiners, Box 86510, Baton Rouge, LA 70879-6510.

Wayne R. Rogillio
Executive Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Definitions, Organization, Board Membership, Training, Investigations (LAC 46:LIX: Chapters 1-8)

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Neither costs nor savings to state or local governmental units are involved in these rule changes.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
No effect on revenue collections of state or local governmental units is anticipated from these rule changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

No costs or economic benefits to directly affected persons or nongovernmental groups are expected from these rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No effect on competition and employment is anticipated from these rules changes.

Wayne R. Rogillio
Executive Secretary
9607#028

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

**Department of Social Services
Office of Rehabilitation Services**

**Policy Manual—Confidentiality and Order of Selection
(LAC 67:VII.101)**

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) is revising its *Policy Manual*, Sections: Order of Selection Policy and Confidentiality Policy.

The rule governing Louisiana Rehabilitation Services' order of selection ensures that individuals with the most severe disabilities receive priority for cost rehabilitation services.

The rule governing Louisiana Rehabilitation Services' confidentiality policy provides for the collection and release of personal information.

Because of federal guidelines, this rule must become effective September 1, 1996; therefore, we will submit an emergency rule later to meet the Federal deadline.

The LRS policy manuals are referenced in LAC 67:VII.101 as follows.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 1. General Provisions

§101. Vocational Rehabilitation Policy Manual

A. LRS Vocational Rehabilitation Policy Manual provides opportunities for employment outcomes and independence to individuals with disabilities through vocational and other rehabilitation services. Its policy manual guides its functions and governs its actions within the parameters of federal law.

B. Copies of the policy manual can be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA and at each of its nine Louisiana Rehabilitation Services Regional Offices (statewide), or at the Office of the State Register, 1051 North Third Street Suite 512, Baton Rouge, LA 70802.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Rehabilitation Services, LR 17:891 (September 1991), amended LR 20:317 (March 1994), repromulgated LR 21:189 (February 1995), LR 21:191 (February 1995), amended LR 21:473

(May 1995), amended LR 21:837 (August 1995), repromulgated LR 22:

Public hearings will be conducted August 26, 1996, in Shreveport, Baton Rouge, and New Orleans, beginning at 10 a.m. The hearing locations are as follows: Shreveport Regional Office, 1525 Fairfield Avenue; Baton Rouge Regional Office, 2097 Beaumont Drive; and New Orleans Regional Office, 2026 St. Charles Avenue.

Individuals with disabilities who require special services should contact Louisiana Rehabilitation Services at least seven working days prior to the hearing if they wish to attend. For information and assistance call (504) 925-4131 or 1-800-737-2958; or for Voice and TDD, 1-800-543-2099.

Interested persons may submit written comments by August 20, 1996, to May Nelson, Director, Louisiana Rehabilitation Services, at 8225 Florida Blvd., Baton Rouge, LA 70806-4834. Ms. Nelson is responsible for responding to inquiries regarding the proposed rule.

The entire Vocational Rehabilitation Policy Manual can be viewed at Louisiana Rehabilitation Services State Office, 8225 Florida Boulevard, Baton Rouge, LA 70806 and at the nine Louisiana Rehabilitation Service Regional Offices (statewide) or at the Office of the State Registrar, 1051 North Third Street, Suite 512, Baton Rouge, LA 70802.

Madlyn B. Bagneris
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Confidentiality and Order of Selection

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is an estimated \$2,460 implementation cost.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
Louisiana Rehabilitation Services has sufficient funds to provide client services and administer the program as Act 16 was approved by the Louisiana Legislature.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no effect on Louisiana Rehabilitation Services' clients presently being provided cost services. Effective September 1, 1996, nonseverely disabled individuals who require either cost or no cost services consisting of only counseling and job placement will no longer be served until such time as the agency is able to open services to all eligible clients and selection group III.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no proposed change in competition and employment in the public and private sectors.

May Nelson
Director
9607#057

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Treasury Bond Commission

Reimbursement Contract (LAC 71:III)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Department of the Treasury intends to amend the rule regarding reimbursement contracts, as follows.

The Omnibus Bond Authorization Act, in order to facilitate the funding of capital improvements by certain governmental units and political subdivisions of the state, has authorized the issuance of general obligation bonds contingent upon the applicable management board, governing body or state agency entering into and executing a reimbursement contract with the State Bond Commission pertaining to the reimbursement payments and reimbursement reserve account payments for such projects.

The execution of such reimbursement contracts does not in any way affect, restrict or limit the pledge of the full faith and credit of the state of Louisiana to the payment of the general obligation bonds issued pursuant to the authority of such act.

The state of Louisiana is obligated to the general obligation bondholder regardless of the existence of any reimbursement contracts between the state and any of its governmental units or political subdivisions, and likewise the governmental unit or political subdivision is obligated to make payment to the state of the money loaned under the reimbursement contracts, regardless of the current status of any general obligation bonds.

In some instances the prepayment of such reimbursement contracts can result in savings and/or other benefits to such governmental units and political subdivisions, and to that end a clear and orderly process for entering into and prepaying reimbursement contracts will benefit both the state and the governmental units and political subdivisions utilizing such tax-exempt funds by insuring that funds are handled in such a manner as to maintain the tax-exempt status of any bonds issued in connection with the transaction. Therefore, the following is the policy of the Department of the Treasury, office of the State Bond Commission, to be considered relative to reimbursement contracts.

Title 71

TREASURY

Part III. Bond Commission

1. Any governmental entity or political subdivision borrowing money from the proceeds of a state general obligation bond issue shall, at the time the money is borrowed from the state, enter into a reimbursement contract as provided in the Omnibus Bond Authorization Act pursuant to which the bonds were issued, which reimbursement contract shall provide for the terms and conditions under which these funds shall be repaid by the governmental entity or political subdivision. At the time a reimbursement contract is executed for the underlying tax-exempt obligation, an IRS Form 8038G or Form 8038GC shall be prepared by the Attorney General and shall be executed by the recipient of the bond proceeds.

2. Any governmental unit or political subdivision which has entered into a reimbursement contract shall be allowed to prepay the reimbursement contract:

a. if the prepayment would result in a minimum net present value savings in accordance with schedule A hereto; or

b. if economic and administrative benefits accrue to the governmental unit or political subdivision as a result of the prepayment as may be reasonably determined by the staff of the State Bond Commission; or

c. a prepayment characterized as a current refunding shall be permitted in any case.

3. A governmental unit or political subdivision wishing to prepay a reimbursement contract shall make such request in writing to the office of the State Bond Commission. The staff shall determine the amount due for prepayment, including principal and interest due less the amount of any reimbursement reserves. No redemption premium shall be charged to prepay a reimbursement contract unless such premium is needed to pay a corresponding redemption premium to the state's bondholders within 90 days of such prepayment.

4. The staff of the office of the State Bond Commission shall then send written notification to the chief financial officer or other appropriate official for the entity requesting prepayment setting forth the amount owed for prepayment. Copies of the notice shall be forwarded to the fiscal officer of the Department of the Treasury, the attorney general, and the Division of Administration. The chief financial officer or other official to whom the notice is sent shall verify in writing that they concur with the figures submitted in the written notice.

5. If application is made to the State Bond Commission for the issuance of refunding bonds, the proceeds of which are to be used for the prepayment of a reimbursement contract, a copy of the notification submitted pursuant to Section 4 above must be attached to the application. Upon receipt of such an application, the state debt analyst shall be immediately notified. The total amount due in order to prepay the reimbursement contract must be verified by the state debt analyst and made a part of the file. Once the amounts have been verified the usual procedure for approval of bond applications shall be followed.

6. After the recipient's refunding bonds have been sold, the applicant must contact the office of the State Bond Commission to arrange payment of the reimbursement contract. Prepayments must be accompanied by a certificate of the chief financial officer or bond counsel for the prepaying entity attesting to the correct arbitrage yield on the refunding bonds.

7. Upon delivery of the prepayment check, the state debt analyst shall fill out the parish and local government Reimbursement Contract Prepayment Receipt Log showing receipt of the money, where it is to be deposited and whether it is to be yield restricted to the rate of arbitrage yield certified to by the bond counsel for the prepaying entity (in the case of prepayments funded by a tax-exempt bond issue) or to the rate of the state bond issue (in the case of prepayments not funded with the proceeds of a tax-exempt bond issue, such as those

funded from tax revenues or user fees). The proceeds received as prepayment of reimbursement contracts shall be deposited by the fiscal office, Department of the Treasury, into the state treasury in accordance with the designation shown on the form and shall be placed in the Capital Outlay Escrow Fund. Such funds shall be yield restricted as indicated above or yield reduction payments shall be made as necessary until such funds are expended in accordance with law. All interest earnings on such funds shall remain in the Capital Outlay Escrow Fund and shall be restricted to the same yield as the original prepayment deposit or yield reduction payments shall be made as necessary until all such earnings are expended along with the principal prepayment amount.

8. Upon deposit of the prepayment proceeds, the Fiscal Control Section of the Department of the Treasury shall notify the Division of Administration that funds are now available to be used in accordance with the Capital Outlay Bill for the current fiscal year. Such notification shall include a copy of the Reimbursement Prepayment Receipt Form.

9. The Division of Administration shall notify the fiscal control section of the Department of Treasury when these funds have been allocated to a particular project. Such notification shall include the name of the project and the amount allocated.

THE APPROPRIATE THRESHOLD OF SAVINGS THAT SHOULD EXIST FOR AN ECONOMIC ADVANCE REFUNDING

Months To Call	Minimum Present Value Savings To Refund
0 - 12	Net Present Value Savings > 0
13 - 24	Net Present Value Savings > 1.5%
25 - 48	Net Present Value Savings > 3.0%
> 48	Net Present Value Savings > 5.0%

CHECKLIST FOR COMPLIANCE WITH POLICY AND PROCEDURES FOR PREPAYMENT OF REIMBURSEMENT CONTRACTS

- Name of entity _____
- Identifying information on reimbursement contract
 - Name _____
 - Series _____ Issue Date _____
 - Amount of Original Issue _____
 - Principal and Interest Payment Dates: P _____ I _____
- IRS Form 8038G or 8038GC executed? Yes _____ No _____
- Net present value savings _____
- Date request for prepayment approval received _____
- Forwarded to State Debt Analyst II(date) _____
- Cost of prepayment:
 - a. Principal \$ _____
 - b. Interest \$ _____
 - c. Redemption premium, if any \$ _____
 - d. Less Reserves \$ _____
 - e. Total amount due for prepayment \$ _____
- Request for verification forwarded to chief financial officer _____
(Copies to Division of Administration; Attorney General; fiscal control section)
- Verification received from chief financial officer _____
- Prepayment received on (date) _____
Arbitrage yield certificate Yes _____ No _____
- Reimbursement Prepayment Receipt Form completed _____
- Funds deposited into Capital Outlay Escrow Account on _____
- Yield restricted to rate of _____
- Division of Administration notified of deposit on _____

CHECKLIST FOR BOND APPLICATIONS WHEN BOND PROCEEDS ARE TO BE USED FOR PREPAYMENT OF REIMBURSEMENT CONTRACTS

- Name of entity _____
- Identifying information on reimbursement contract to be prepaid with bond proceeds
 - Name _____
 - Series _____ Issue Date _____
 - Amount of Original Issue _____
 - Principal and Interest Payment Dates: P _____ I _____
- State Debt Analyst notified of application (date) _____
- Verification of prepayment amount received from SDA (date) _____

NOTIFICATION OF AMOUNT DUE FOR PREPAYMENT OF REIMBURSEMENT CONTRACT

YOU ARE HEREBY NOTIFIED THAT THE OFFICE OF THE STATE BOND COMMISSION HAS RECEIVED YOUR REQUEST FOR PREPAYMENT OF THE FOLLOWING REIMBURSEMENT CONTRACT:

- Name of entity _____
- Identifying information on reimbursement contract to be prepaid with bond proceeds
 - Name _____
 - Series _____ Issue Date _____
 - Amount of Original Issue _____
 - Principal and Interest Payment Dates: P _____ I _____

A REVIEW OF OUR RECORDS INDICATES THAT THE FOLLOWING AMOUNTS ARE DUE IN ORDER TO PREPAY THE REIMBURSEMENT CONTRACT ON OR BEFORE THE FOLLOWING DATE _____

- Cost of prepayment:
- a. Principal \$ _____
 - b. Interest \$ _____
 - c. Redemption premium, if any \$ _____
 - d. Less Reserves \$ _____
 - e. Total amount due for prepayment \$ _____

IF YOU CONCUR WITH THE ABOVE FIGURES, SIGN AND RETURN THE ORIGINAL OF THIS NOTICE TO THE ADDRESS SHOWN ABOVE. IF YOU DISAGREE WITH THE ABOVE FIGURES, CONTACT THE FOLLOWING PERSON AT THE STATE BOND COMMISSION:

State Debt Analyst _____ Chief Financial Officer _____

PARISH AND LOCAL GOVERNMENT REIMBURSEMENT CONTRACT PREPAYMENT RECEIPT LOG

- Name of prepaying entity _____
- Identifying information on reimbursement contract to be prepaid
 - Name _____
 - Series _____ Issue Date _____
 - Amount of Original Issue _____
 - Principal and Interest Payment Dates: P _____ I _____
- Check No. _____
- Dated _____
- Amount Received _____
- Date Received _____
- Deposited into: _____
(Account Name)
- Yield restricted or yield reduction payments owed in accordance with the following rates:
 - Rate of arbitrage yield for prepaying entity _____
 - Rate of arbitrage yield for state bond issue _____
- Source of Funding
 - a. Local Bond Issue? _____
 - b. Tax-Revenue? _____

Interested persons are invited to submit written comments on this proposed rule. Such comments should be submitted no later than Friday, July 19, 1996 at 4:30 p.m. to Sharon Perez, State Bond Commission, Box 44154, Baton Rouge, LA 70804.

Ken Duncan
State Treasurer

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Reimbursement Contract**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Governmental units choosing to prepay reimbursement contracts would realize interest savings. Each governmental agency's savings would be individually calculated based on the debt outstanding. The rule eliminates the premium charged for prepayments.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

State government would have increased revenue collections in the year of the prepayment and reductions in collections for the remaining years applicable to the individual debt. The effect would be the reverse for the government agencies choosing to prepay.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

It is impossible to determine which groups would choose to prepay.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Gary K. Hall
Acting First Assistant
State Treasurer
9607#022

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

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

1997 Turkey Hunting Season

The Wildlife and Fisheries Commission at its July meeting does hereby give notice of its intent to promulgate rules and regulations governing the hunting of wild turkeys. A synopsis of said rule follows, along with a complete copy of the regulations.

**1997 Turkey Hunting Season Schedule
(Shooting Hours: One-half hour before
sunrise to one-half hour after sunset)**

Daily limit one gobbler, three gobblers per season. Still hunting only. Use of dogs, baiting, electronic calling devices and live decoys are illegal. Turkeys may be hunted with shotguns, including muzzle loading shotguns, using shot not

larger than Number 2 lead or BB steel shot, and bow and arrow but by no other means. Shooting turkeys from a moving or stationary vehicle is prohibited.

Turkey baiting is hereby defined as the placing or distributing of harvested grain such as, but not limited to, corn, wheat or milo in such a manner so as to constitute a lure or attraction to any area where hunters are attempting to take turkeys.

A person shall be deemed to be hunting over bait if he is in the act of hunting (calling or in a blind) within 100 yards of a baited site. A baited site is only and specifically that immediate area where bait is deposited.

Any area where a hunter or hunters are found hunting or attempting to take turkeys over bait during the open turkey hunting season shall be immediately closed to hunting by posting signs circumscribing the bait site by a distance of 100 yards in all directions from the bait site. The signs shall read "Posted—Baited Area—Closed to Hunting". The area shall remain closed until all bait has been removed and for 15 days afterward.

The Department of Wildlife and Fisheries strongly discourages "feeding" agricultural grains to wild turkeys as this practice increases the risk of the birds contracting potentially lethal diseases. Repeatedly placing grain in the same area may expose otherwise healthy birds to disease contaminated soils, grain containing lethal toxins and other diseased turkeys using the same feeding site. Properly distributed food plots (clovers, wheat, millet and chufa) are far more desirable for turkeys and have the added benefit of appealing to a wide variety of wildlife.

It is unlawful to take from the wild or possess in captivity any live wild turkeys or their eggs. No pen raised turkeys from within or without the state shall be liberated (released) within the state.

Beginning with the 1996 Turkey Season, all licensed turkey hunters including lifetime license holders will be required to have a Louisiana Wild Turkey stamp in their possession while turkey hunting, in addition to their basic and big game licenses. Money derived from stamps sales will be dedicated to projects that benefit wild turkeys in Louisiana.

Turkey Hunting Season—Open Only in the Following Areas:

Area A

March 22-April 27

All of the Following Parishes Are Open:

East Baton Rouge, East Feliciana, Grant, Livingston, Natchitoches, Rapides, Sabine, St. Helena, St. Tammany, Tangipahoa, Washington, Vernon, West Baton Rouge, West Feliciana (including Raccourci Island).

Portions of the Following Parishes Are Also Open:

Allen: North of LA 26 from DeRidder to the jct. of LA 104 and north of LA 104.

Ascension, Assumption, Iberville: North of LA 70 from LA 1 to the East Atchafalaya Basin Protection Levee, east of the east protection levee northward to I-10, south of I-10 from its jct. with the east protection levee at Ramah to LA 1, south and west of LA 1 from I-10 to LA 70. Also, that portion of Iberville Parish lying north of I-10 except see Sherburne for special season on all state, federal and private lands within Sherburne's boundaries.

Avoyelles: That portion bounded on the east by the Atchafalaya River northward from Simmesport, on the north by Red River to the Brouillette Community, on the west by LA 452 from Brouillette to LA 1, eastward to Simmesport, except that portion surrounding Pomme de Terre WMA, bounded on the north, east and south by LA 451, on the west by the Big Bend Levee from its jct. at Bayou des Glaise structure east of Bordelonville southward to its jct. with LA 451.

Beauregard: North of LA 26 east of DeRidder, west of Hwy. 171 from the jct. of Hwy. 26 south to Calcasieu Parish.

Calcasieu: West of U.S. 171 north of I-10 and north of I-10 from the jct. of U.S. 171 to Texas State line.

Caldwell: West of Ouachita River southward to Catahoula line, east and north of LA 126 and south and west of LA 127.

Catahoula: West of Ouachita River southward to LA 559 at Duty Ferry, north of LA 559 to LA 124, south and west of LA 124 from Duty Ferry to LA 8 at Harrisonburg and north of LA 8 to LA 126, north and east of LA 126. ALSO that portion of Catahoula listed below.

Catahoula, Concordia, East Carroll, Franklin, Madison, Richland and Tensas: East of U.S. 65 from the Arkansas line to U.S. 80, south of U.S. 80 westward to LA 17, east of LA 17 and LA 15 from Delhi to Winnsboro to Clayton; west of U.S. 65 from Clayton to jct. of LA 128, north of LA 128 to St. Joseph; west and north of LA 605, 604 and 3078 northward to Port Gibson Ferry. Also all lands in East Carroll, Tensas and Madison Parishes lying east of the main channel of the Mississippi River.

Evangeline: North and west of LA 115, north of LA 106 from St. Landry to LA 13, west of LA 13 from Pine Prairie to Mamou and north of LA 104 west of Mamou.

Iberville: West of LA 1.

LaSalle: All lands lying west of LA 127 from the Caldwell Parish line to the jct. of LA 124, south of LA 124 to the jct. of LA 124 and LA 126, west of LA 126 to the jct. with LA 503, north of LA 503 to Summerville, west of LA 127 from Summerville to Little River. Also that portion of land east of LA 126 from the Caldwell Parish line to the Catahoula Parish line.

Pointe Coupee: All except that portion bounded on the west by LA 77 and LA 10, northward from U.S. 190 to LA 1 at Morganza, on the north and east by LA 1 to its jct. with LA 78 and by LA 78 from Parlang to U.S. 190.

St. Landry: That portion bounded on the north by U.S. 190, west by the West Atchafalaya Basin Protection Levee, except: Sherburne WMA, Atchafalaya National Wildlife Refuge, U.S. Army Corps of Engineers lands, Indian Bayou Tract, formerly St. Landry Land and Timber holdings - March 22-30, self-clearing permit required, one turkey per hunter bag limit. Also that portion of the parish bounded on the north by LA 10 from the West Atchafalaya Protection Levee to Burton's Lake, on the east by Burton's Lake, on the south by Petite Prairie Bayou to its jct. with the old O.G. Railroad right-of-way, then by the O.G.R.R. right-of-way westward to U.S. 71 and the West Atchafalaya Protection Levee to its jct. with LA 10.

Upper St. Martin: All within the Atchafalaya Basin.

Winn: Only that portion within the boundaries of National Catahoula Wildlife Management Preserve.

Area B

April 12-April 27

All of the Following Parishes Are Open:

Bienville, Bossier, Claiborne, Lincoln, Red River, Webster.

Portions of the Following Parishes Are Open:

Caddo: That portion north of LA 2 from Texas line to U.S. 71, east of U.S. 71 from LA 2 to I-20, south of I-20 from U.S. 71 to U.S. 171, and east of U.S. 171 to the DeSoto Parish line.

DeSoto: That portion east of U.S. 171 from the Caddo Parish line to U.S. 84 and south of U.S. 84 from U.S. 171 to the Texas line.

Jackson: West of Parish Road 243 from Lincoln Parish line to Parish Road 238, west and south of Parish Road 238 to LA 144, west of LA 144 to LA 34, west of LA 34 to Chatham, north of LA 146 from Chatham to LA 155, north of LA 155 to LA 542, north of LA 542 to Quitman, north of LA 155 to Bienville parish line.

Morehouse: West of U.S. 165 from the Arkansas line to Bonita, north and west of LA 140 to jct. of LA 830-4 (Cooper Lake Road), west of LA 830-4 to Bastrop, north of U.S. 165 from Bastrop to Ouachita Parish line.

Union: West of LA 15 from Ouachita Parish line to LA 33 at Farmerville, north of LA 33 from Farmerville to Marion, north of LA 827 from Marion to Dean, north of Dean Church Road to Alabama Landing Road, north of Alabama Landing Road from Dean Church Road intersection to Ouachita River.

Area C

March 22-March 30

Portions of the Following Parishes Are Open:

Ascension: All east of the Mississippi River.

Avoyelles: That portion surrounding Pomme de Terre WMA, bounded on the north, east, and south by LA 451, on the west by the Big Bend levee from its jct. at the Bayou des Glaise structure east of Bordelonville southward to its jct. with LA 451.

Concordia: North and east of Sugar Mill Chute (Concordia Parish) from state line westward to Red River, east of Red River northward to Cocodrie Bayou, east of Cocodrie Bayou northward to U.S. 65, south of U.S. 65 eastward to U.S. 15 (Ferriday), east of LA 15 northward to U.S. 65 (Clayton), east of U.S. Hwy. 65 to Tensas Parish line.

Iberville: All east of the Mississippi River.

Tensas: East and south of U.S. 65 northward from Concordia Parish line to LA 128, south of LA 128 to St. Joseph, east and south of LA 605, 604, 3078 northward to Port Gibson Ferry.

1997 Wildlife Management Area Turkey Hunting Regulations

General

The following rules and regulations concerning the management, protection and harvest of wildlife have been officially approved and adopted by the Wildlife and Fisheries Commission in accordance with the authority provided in

Louisiana Revised Statutes of 1950, Section 109 of Title 56. Failure to comply with these regulations will subject individual to citation and/or expulsion from the management area.

Consult the 1996-97 Hunting Regulations Pamphlet for more detailed rules and regulations governing the Wildlife Management Areas.

Only those Wildlife Management Areas listed are open to turkey hunting.

All trails and roads designated as ATV Only shall be closed to ATVs from March 1 through June 1. ATV off-road or trail travel is prohibited. Walk-in hunting only (bicycles permitted).

Bag limits on WMAs are a part of your season bag limit. The bag limit for turkeys on Wildlife Management Areas shall be one per area, not to exceed two per season for all WMAs. The bag limit for turkeys is one gobbler per day and three gobblers per season including those taken on WMAs.

Permits

Self-clearing Permits: All turkey hunts, including lottery hunts, are self-clearing and all hunters must check in daily by picking up a permit from a self-clearing station. Upon completion of each daily hunt, the hunter must check out by completing the hunter report portion of the permit and depositing it in the check out box at a self-clearing station before exiting the WMA.

Lottery Hunts: Dewey Wills, Georgia-Pacific, Loggy Bayou, Sherburne, Sicily Island and Tunica Hills WMAs are restricted to those persons selected as a result of the pre-application Lottery. Deadline for receiving applications is January 31, 1997. Application fee of \$5 must be sent with each application. Applicants may submit only one application and will be selected for one WMA Turkey Lottery Hunt annually. Submitting more than one application will result in disqualification. Contact any District office for applications. Hunters must abide by self-clearing permit requirements. Hunters on these areas must record their turkey at the appropriate stations prior to leaving the area.

Requests for information on WMA regulations, permits, lottery hunt applications and maps may be directed to any district office: [District 1-P.O. Box 915, Minden, 71055, Phone (318) 371-3050]; [District 2-368 Century Park Drive, Monroe, 71203, Phone (318) 343-4044]; [District 3-1995 Shreveport Hwy., Pineville, 71360, Phone (318) 487-5885]; [District 4-P.O. Box 426, Ferriday, 71334, Phone (318) 757-4571]; [District 5-1213 North Lakeshore Drive, Lake Charles, 70601, Phone (318) 491-2575]; [District 6-105 Avenue of the Acadians, Opelousas, 70571-0585, Phone (318) 948-0255]; or [District 7-P.O. Box 98000, Baton Rouge, 70898-9000, Phone (504) 765-2360].

WILDLIFE MANAGEMENT TURKEY HUNTING SCHEDULE*

WMA	Season Dates	Permit Requirements	Lottery Dates**
Bens Creek	March 22-April 13	Self-Clearing	None
Big Lake	March 22-March 30	Self-Clearing	None

Bodcau	April 12-April 27	Self-Clearing	None
Boeuf	March 22-March 30	Self-Clearing	None
Boise Vernon	March 22-April 13	Self-Clearing	None
Camp Beauregard	March 22-April 6	Self-Clearing	None
Dewey Wills	March 22-March 30	Self-Clearing	March 22-23 March 24-26
Fort Polk	March 22-April 22	Self-Clearing	None
Georgia-Pacific	April 12-April 20	Self-Clearing	April 12-13 April 14-16
Grassy Lake	March 22-March 30	Self-Clearing	None
Jackson-Bienville	April 12-April 27	Self-Clearing	None
Little River	March 22-April 6	Self-Clearing	None
Loggy Bayou	April 12-April 13 April 19-April 20	Self-Clearing	April 12-13 April 19-20
Pearl River	March 22-April 6	Self-Clearing	None
Peason Ridge	March 22-April 22	Self-Clearing	None
Pomme de Terre	March 22-March 30	Self-Clearing	None
Red River	March 22-March 30	Self-Clearing	None
Sandy Hollow	March 22-April 6	Self-Clearing	None
Sherburne	March 22-March 30	Self-Clearing	March 22-23 March 24-26
Sicily Island	March 22-March 23 March 29-March 30 April 5-April 6	Self-Clearing	March 22-23 March 29-30 April 5-6
Three Rivers	March 22-March 30	Self-Clearing	None
Tunica Hills	March 22-March 23 March 29-March 30 April 5-April 6	Self-Clearing	March 22-23 March 29-30 April 5-6

*Only those wildlife management areas listed shall have a turkey hunting season. All other areas are closed. The department manages additional lands that are included in the WMA system and available for public recreation. Contact the appropriate Wildlife and Fisheries District Office for specific information and any additional season dates.

**the deadline for receiving applications for all turkey lottery hunts on WMAs is January 31, 1997.

Volunteer Turkey Weigh and Check Stations

In an effort to better manage Louisiana's turkey population, volunteer weigh and check stations are located throughout the state at local sporting good stores, grocery stores and hunting clubs. Scales and data sheets are located at the stations for your convenience. Please have your turkey weighed and measured at one of these stations. By recording your turkey, you automatically are eligible for one of three shotguns to be given away in the early summer. An annotated list of turkey weigh stations is included in the regulations pamphlet.

CITATION: None-Changes Annually.

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 22:

Public hearings will be held at regularly scheduled Louisiana Wildlife and Fisheries Commission meetings from August through November. Additionally, interested persons may submit written comments relative to the proposed rule until September 27, 1996 to Hugh A. Bateman, Department of Wildlife and Fisheries, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000.

Glynn Carver
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Hunting of Turkeys for 1997

- 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 to the state, aside from staff time, is the production of the turkey regulation pamphlets and the turkey stamps estimated to cost \$6,500. The state agency currently has sufficient funds to implement the proposed action and no implementation costs or savings will be incurred by local governmental units resulting from the proposed rule.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
License revenues from the sale of the turkey stamps are estimated to be about \$34,000. Failure to adopt this rule would result in no turkey hunting seasons being established and loss of state revenues from sale of turkey stamps. In addition loss of tax revenues of an undeterminable amount may occur to both state and local governmental units from the sale of supplies and equipment used in the pursuit of turkeys.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
Approximately 6,000 residents and nonresident sportsmen and an undeterminable amount of sporting good distributors, retail outlets and landowners are directly affected by this proposal. Turkey hunters in Louisiana generate income to retail outlets, landowners and commercial operations that cater to the hunting public through hunting leases and the sale of outdoor related equipment and associated items (food, fuel, clothing, shotgun shells, etc.). These land and business owners will be negatively impacted if no hunting seasons, rules and regulations are established and promulgated. The actual amount of this

impact is not estimable at this time. Both resident and nonresident turkey hunters will incur an additional cost of \$5.50 and \$10.50, respectively from the required purchase of a wild turkey stamp.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Hunting supports approximately 9,370 full and part-time jobs in Louisiana of which a proportion is directly related to turkey hunting. Failure to establish turkey hunting seasons may have a negative impact on some of these jobs. It is also estimated that there will be little or no effect on competition in both the public and private sectors resulting from the proposed action.

Fredrick J. Prejean, Sr.
Undersecretary
9607#039

Richard W. England
Assistant to the
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial Fish Seining Permit—Lake Louis
(LAC 76:VII.Chapter 1)

The Wildlife and Fisheries Commission hereby advertises its intent to adopt the following rule on commercial fish seining on Lake Louis in Catahoula Parish.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 1. Freshwater Sport and Commercial Fishing §183. Commercial Fish Seining Regulations, Lake Louis

A. Commercial fish seining regulations on Lake Louis, Catahoula Parish, Louisiana are as follows:

Commercial fish seining shall be prohibited on Lake Louis except that fish seining will be legal under a special permit issued by the Department of Wildlife and Fisheries as described below:

DATE ISSUED: _____

SPECIAL COMMERCIAL FISH SEINING PERMIT NUMBER: _____

NAME: _____

ADDRESS: _____

FOR PERIOD: JANUARY 1, ____ TO DECEMBER 31, ____

This permit entitles the holder, who must have a valid commercial fishing license and fish seine license, to conduct legal fish seining operations on Lake Louis, in Catahoula Parish, Louisiana.

In addition to existing Louisiana fish seining rules, the following special permit regulations shall apply:

1. Seining shall be permitted only on Monday through Friday, during daylight hours from official sunrise to official sunset.

2. Permittee shall notify Enforcement Personnel, Department of Wildlife and Fisheries, located at the Region IV office headquarters, Ferriday, Louisiana, at least 24 hours prior to conducting each seining operation.

3. Permittee shall make every effort to conduct seining operations as per R.S. 56:328 which states: "Nets shall not be hauled out upon the shore in such a way that any illegal fish which may happen to be taken therein cannot be returned to the water without injury."

4. Permittee shall leave no fish captured during a seining operation on or in the vicinity of the shoreline.

5. Permittee must have this permit on his person while using or transporting commercial fish seines in the above described waters.

6. Failure to comply with the terms of this permit or any Louisiana commercial fishing regulations shall result in immediate

cancellation of the permit, and the option to deny the issuance of another seine permit in the future.

7. This permit is issued on a calendar year basis and shall be renewed each year.

8. No person convicted of a fisheries related violation Class II or greater within the last five years shall be eligible to obtain this permit.

Sincerely,
Secretary

I have read and understand the terms of this permit and agree to comply.

SIGNATURE: _____

COMMERCIAL FISHERMAN LICENSE NUMBER: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:22.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 22:

The secretary of the Department of Wildlife and Fisheries is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this notice of intent and the final rule, including, but not limited to, the filing of the fiscal and economic impact statements, the filing of the notice of intent and final rule and the preparation of reports and correspondence to other agencies of government.

Interested persons may submit written comments on the proposed rule to Bennie Fontenot, Administrator, Inland Fisheries Division, Department of Wildlife and Fisheries, Box 98000, Baton Rouge, LA 70898-9000, no later than 4:30 p.m., September 5, 1996.

Glynn Carver
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Fish Seining Permit-Lake Louis

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no implementation costs. Existing personnel already on the payroll will assume the additional duties to enforce the rule and administer and issue the permits. Catahoula Parish had 15 commercial seine licenses issued in 1995. It is anticipated no more than 5 to 7 Lake Louis seine permits will be requested.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on revenue collections of state or local governments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have no costs and/or economic benefits to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact on competition and employment in the public and private sectors.

Fredrick J. Prejean, Sr.
Undersecretary
9607#040

Richard W. England
Assistant to the
Legislative Fiscal Officer

Administrative Code

Update

CUMULATIVE ADMINISTRATIVE CODE UPDATE

January - June, 1996

LAC Title	Part.Section	Effect	Location LR 22 Month Page
4	III.Chapter 1	Amended	Jan 22
	VII.341	Amended	May 345
10	XV.Chapter 9	Amended	Mar 187
13	I.Chapter 9	Amended	Jun 445
25	VII.2105	Amended	Jan 12
28	I.105	Amended	Feb 99
	I.929	Amended	Apr 278
	I.1523	Amended	Jun 453
33	I.3931	Amended	May 341
	I.Chapter 5	Adopted	May 342
	III.107	Amended	May 343
	III.209,211,215	Amended	Jan 17
	III.509	Amended	May 339
	III.517	Amended	May 344
	III.918,919	Amended	May 339
	III.2103	Amended	Jun 453
	III.2117	Repromulgated	Jan 14
	III.2123	Amended	May 340
	III.3107	Amended	May 340
	III.3260,3264	Amended	Jan 17
	III.3301	Amended	May 341
	III.5112	Amended	Apr 278
	III.6115,6117	Adopted	Jan 15
	V.319	Amended	May 344
V.5125-5129,5141	V.5125-5129,5141	Amended	Jan 18
	V.1113	Amended	May 344
V.Chapter 11	V.Chapter 11	Amended	Jan 20
	V.4115,4139	Amended	Jan 21
V.4139	Repromulgated	Feb 100	
V.Chapter 22	Amended	Jan 22	
VII.Chapters 1,3,7	VII.Chapters 1,3,7	Amended	Apr 279
	VII.309	Amended	May 344
VII.529	Amended	Jan 18	
IX.301,309,315	Amended	May 344	
IX.1307,1309	Amended	Jan 19	
IX.1507	Amended	May 345	
XI.307	Amended	Jan 19	
XV.324	Amended	May 345	
XV.2505,2509,2511	Amended	Jan 19	
34	I.3105	Amended	Apr 280
	III.511	Amended	May 345

35	I.1507	Amended	Jan	12	I.4905	Adopted	Jan	35	
	III.5736	Adopted	Jan	13	V.Chapters 3-35	Amended	Feb	117	
	V.6353	Amended	Jan	13					
	XI.9905	Repealed	Jan	13	67	III.1931	Amended	Apr	286
	XIII.11115	Amended	Jan	13		III.2524	Adopted	Mar	224
40	I.105	Amended	Mar	221		III.2527	Amended	Feb	118
	I.107	Repealed	Mar	221		III.2540	Adopted	Feb	118
	I.109	Amended	Mar	221		III.2543	Adopted	Mar	223
	I.109	Repromulgated	Apr	285		III.2703	Adopted	Feb	117
	I.Chapter 17	Adopted	Mar	222		III.2705	Adopted	Feb	118
	I.Chapter 19	Amended	Mar	222		III.2751,2753	Amended	Feb	117
	III.107	Amended	Jan	34		VII.Chapter 21	Adopted	Feb	119
	III.301-307	Adopted	Jan	35	70	I.101-113	Amended	Mar	224
42	I.1789	Amended	Feb	110		I.Chapter 2	Amended	Mar	228
	I.1791	Adopted	Feb	111		III.301-313	Repealed	Mar	228
						III.Chapter 21	Adopted	Mar	228
46	XXI.1105	Amended	Jun	445	73	I.Chapters 5-19	Amended	Feb	120
	XXVII.Chap.3-7	Amended	Mar	191		I.Chapter 11	Adopted	May	372
	XXVII.Chapter 9	Adopted	Mar	193	76	VII.181	Adopted	Mar	231
	XXIX.1501-1509	Adopted	Feb	94		VII.161	Amended	May	374
	XXXIII.105	Amended	Jan	23		VII.169	Amended	May	376
	XXXIII.106	Adopted	Jan	24		VII.201,203	Amended	May	373
	XXXIII.301,306	Amended	Jan	23		VII.341	Amended	Mar	238
	XXXIII.503	Amended	Jan	22		VII.343	Amended	Mar	236
	XXXIII.701,706	Amended	Jan	22		VII.349	Amended	Mar	233
	XXXIII.708	Adopted	Jan	23		VII.403	Adopted	Mar	240
	XXXIII.907,919	Amended	Jan	24		VII.405	Adopted	Mar	237
	XXXIII.1611-1615	Amended	Jan	21		VII.515	Adopted	Feb	120
	XLV.301-431	Amended	Mar	207		XVII.101	Adopted	Mar	235
	XLV.301-431	Rule Withdrawal	Apr	280		XVII.301	Adopted	Mar	231
	XLV.Chap.15,45	Amended	Mar	201					
	XLV.Chapter 111	Adopted	Mar	195					
	XLVII.3305,3307	Amended	Feb	104					
	XLVII.3705-3713	Repealed	Apr	280					
	XLVII.4501-4517	Adopted	Apr	281					
	LIV.107,115	Amended	Apr	284					
	LVII.512	Adopted	Jun	459					
	LVII.518	Adopted	May	371					
	LX.Chapters 1-17	Amended	Feb	101					
	LXI.309	Amended	Apr	286					
	LXI.1701	Amended	Apr	287					
	LXVII.705	Amended	Mar	190					
	LXVII.3103	Adopted	Feb	96					
	LXVII.4707	Repromulgated	Feb	95					
	LXVII.2101-2105	Repromulgated	Feb	96					
	LXVII.2107	Repealed	Feb	97					
	LXXV.Chapters 1-7	Amended	May	346					
48	I.2303	Amended	Jan	29					
	I.2305	Repromulgated	Jun	456					
	I.2438-2444	Amended	Jan	30					
	I.2446,2449	Adopted	Jan	31					
	I.2449	Repromulgated	Apr	285					
	I.3945	Adopted	Mar	216					
	V.Chapters 49-59	Amended	May	362					
	V.12314	Adopted	Jan	25					
55	III.Chapter 1	Adopted	Apr	286					
	VII.317	Amended	Feb	116					
58	I.Chapters 1-29	Amended	May	373					
	III.	Adopted	Apr	290					
61	I.Chapter 33	Adopted	Jun	460					

Potpourri

POTPOURRI

Department of Environmental Quality Office of Air Quality and Radiation Protection

Annual Air Quality Report—Air Toxics, Ozone Standard Attainment and Mobile Sources Reports

The Department of Environmental Quality, Office of Air Quality and Radiation Protection has published the Louisiana Air Quality Report for 1995 activity. This report combines the toxic air pollutant emission control program report, the ozone standard attainment report and the motor vehicle emission control program report. In the air toxics section, the 1994 toxic air pollutant emissions are compared to the 1987 toxic air pollutant emissions baseline. The report was prepared in accordance with the requirements of R.S. 30:2060.G and R.S. 30:2054 B (8)(d). Interested persons may obtain copies of the report by contacting Joyce Coleman of the Office of Air Quality and Radiation Protection at (504) 765-0902.

Gus Von Bodungen
Assistant Secretary

9607#069

POTPOURRI

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

**Facilities with a Consolidated
Fugitive Emission Program**

On April 17, 1996, a memorandum of understanding between EPA Region 6 and LDEQ was signed to implement a consolidated fugitive emission control program for industrial facilities in Louisiana. The program consolidates overlapping state and federal equipment leak control programs based on an "overall most stringent program" approach.

This notice serves to provide the names of those facilities that have submitted a source notice and agreement to consolidate fugitive emission programs for specified units as of June 26, 1996:

- Citgo Petroleum Corporation - Calcasieu Parish
- Cosmar Company - Iberville Parish
- Dow Chemical U.S.A. - Iberville Parish
- Exxon Chemical Americas - East Baton Rouge Parish
- Exxon Chemical Co., Polymers Group (Plastics Plant) - East Baton Rouge Parish
- Ferro Corporation, Grant Chemical Division - East Baton Rouge Parish
- Georgia Gulf Corporation - Iberville Parish
- Rubicon Inc. - Ascension Parish

Contact Jim Courville at (504) 765-0219 for additional information.

Gus Von Bodungen, P.E.
Assistant Secretary

9607#071

POTPOURRI

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

Future Rulemaking on NSPS and NESHAP

Industry, environmental groups, and concerned citizens are invited to attend a meeting to discuss future rulemaking affecting the state's standards of performance for new stationary sources (NSPS) and the comprehensive air toxics (NESHAP) programs. The current NSPS program in LAC 33:III.Chapter 31 will be repealed, as will selected parts of the current NESHAP program in Chapters 51 and 53. Repealed parts will be replaced by federal regulations (40 CFR Parts 60, 61 and 63) adopted by reference. Incorporation by reference eliminates the need to promulgate a federal statutory requirement, verbatim, into Louisiana statutes, and thereby eliminates extra volumes of printed regulations. The result is that the same regulations will be enforced without duplicating the printing of those regulations. These changes are applicable throughout the state. The meeting is scheduled as follows: July 31, 1996, at 10 a.m. DEQ headquarters, 7290

Bluebonnet, Baton Rouge, LA. Maynard Ketcham Building Room 326. Contact Pat Salvaggio at (504) 765-0915 for additional information.

Gus Von Bodungen, P.E.
Assistant Secretary

9607#070

POTPOURRI

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

Private Nursing Facility Services—Reimbursement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing announces that changes to the reimbursement regulations governing private nursing facility services under the Medicaid Program are to be made effective July 1, 1996. Reimbursement regulations governing private nursing facility services based on the emergency rules covering the period between January 1, 1995 through June 30, 1996 will no longer be in effect. The Department has determined that reimbursement of private nursing facility services in accordance with the changes to be effective July 1, 1996, complies with federal law and regulations and that the additional reimbursement produced by provisions to be changed is not necessary to assure quality and access to services.

The regulations existent through June 30, 1996 incorporated the following components. The cost categories consisted of three direct and five indirect resident care costs and the incentive factor. The direct costs are nursing services, raw food and recreational. The indirect costs are house-keeping/linen/laundry, other dietary, plant operation and maintenance, administrative and general, building costs, and incentive factor. The inflation factor for aide and attendant salaries was inflated under the Consumer Price Index for Medical Care Services. The calculation of the incentive factor remained at five percent but excluded building costs from the computation. The calculation for fixed costs was based at the fair rental value. The 60th percentile was changed to the 70th percentile for housekeeping/linen/laundry and the 80th percentile for direct resident care costs.

The reimbursement methodology of private nursing facility services which will be in effect on July 1, 1996 under the currently approved state plan includes the following components. The base rate components will be categorized as food costs, other routine costs, aide and attendant salaries, other nursing services, fixed costs and profit incentive. The aide and attendant salaries are inflated based on the wage economic adjustment factor. The calculation for the fixed cost will be based on cost. The percentiles utilized for all other cost components except profit incentive will be the 60 percentile facility at each cost component. The profit incentive will remain at 5 percent but includes the building cost in the calculation. The base rate will be calculated in

accordance with the currently approved State Plan using 1993 cost.

The Department of Health and Hospitals has made a determination that the payment under the methodology effective July 1, 1996 will meet the requirements of the 42 CFR 447.250. It is expected that this change in reimbursement will reduce expenditures by approximately \$26,000,000 annually.

Interested persons may submit written comments to Thomas D. Collins, Office of the Secretary, Bureau of Health Services Financing, Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this matter.

A copy of this notice may be reviewed at the parish Medicaid office.

Bobby P. Jindal
Secretary

9607#030

POTPOURRI

Department of Insurance Commissioner of Insurance

Proposed Regulation 58—Viatical Settlements Substantive Change Hearing Notice

Pursuant to the Administrative Procedures Act, the Department of Insurance gives notice of a hearing regarding substantive changes made to proposed Regulation 58 of the Department of Insurance. The notice of intent for proposed Regulation 58, prior to the substantive changes, was published in the *Louisiana Register* on February 20, 1996, pp. 148-150.

The following provisions were changed or amended by the Department of Insurance:

1. Section 5(D). The word *cancellation* has been replaced with the word *revocation*, regarding revocation of the license of a viatical settlement provider for failure to pay the yearly fee within the terms prescribed by the Department of Insurance.

2. Section 5(G). This paragraph originally allowed only a deposit of cash or cash equivalents for the minimum capital requirements of a viatical settlement provider. This paragraph has been changed to allow for the use of a bond, in addition to a deposit of cash or cash equivalents.

3. Section 6(D). Section 6(D) has been deleted, to remove the provision for the issuance of a limited license for persons wishing to become viatical settlement brokers.

4. Section 6(I). Section 6(I) has been deleted to remove the provision that states "The Department of Insurance shall not deny a license application or suspend, revoke or refuse to renew the license of a viatical settlement provider without first conducting a hearing in accordance with the Administrative Procedure Act.

5. Section 7. The first three sentences of this section are in the enabling legislation and therefore are unnecessary and

have been deleted. Also, a sentence was added to read as follows: "As provided in R.S. 22:205, the Department of Insurance must approve a viatical settlement contract before it is used in this state." Additionally, the introductory phrase "If the viatical settlement contract is disapproved" was added preceding language which details the duties of the Department of Insurance if a contract form of a viatical settlement provider is disapproved.

6. Section 9. The phrase *minimum discounts* has been replaced with the phrase *minimum amounts*, to clarify the fact that the percentages listed are the minimum percentages which must be paid to a viator. Also, a procedure for obtaining a variance from the minimum percentages to be paid to a viator has been added to Section 9.

7. Section 10(B). The last sentence of Section 10(B) has been deleted, to remove the provision which allowed viatical settlement proceeds to be paid in installments.

The hearing regarding the substantive changes described above will be held at 8:45 a.m., August 26, 1996 in the Plaza Hearing Room of the Insurance Building at 950 North fifth Street, Baton Rouge, LA. All interested persons will be afforded an opportunity to make comments.

Interested persons may obtain a copy of the proposed changes from, and may submit oral or written comments to Denise Cassano, Assistant Director, Louisiana Health Care Commission, Department of Insurance, Box 94214, Baton Rouge, LA 70804-9214, telephone (504) 342-0819 or (504) 342-5075. Comments will be accepted through the close of business at 4:30 p.m. August 26, 1996.

James H. "Jim" Brown
Commissioner

9607#074

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.
Benin Oil Co. et al	Deep Bayou	Cameron Meadows Land Co	001	086222
Edgewater Exploration Co., Inc.	Wildcat	LA Pacific	26-1	146387

Falcon Oil Co.	Caddo-Pine Island	Glassell-Youree	002	021130
Ody Oil Corp.	North Ossun	NOD 1 RA SUA, Benoit Begnaud	001	163102
H. L. Richey	Caddo-Pine Island	W E Hall	011	101035
H. L. Richey	Caddo-Pine Island	W E Hall	012	102144
H. L. Richey	Caddo-Pine Island	W E Hall	013	102145
H. L. Richey	Caddo-Pine Island	W E Hall	002	104095
H. L. Richey	Caddo-Pine Island	W E Hall	001	104096
H. L. Richey	Caddo-Pine Island	W E Hall	004	104290
H. L. Richey	Caddo-Pine Island	W E Hall	006	107517
H. L. Richey	Caddo-Pine Island	W E Hall	007	107518
D. J. Simmons and Co. of La.	Monroe	Union	088	097323

D. J. Simmons and Co. Of La.	Monroe	Union	054	096335
D. J. Simmons and Co. Of La.	Monroe	Union	059	094462
D. J. Simmons and Co. Of La.	Monroe	Union	056	096851
D. J. Simmons and Co. Of La.	Monroe	Union	058	095704
D. J. Simmons and Co. Of La.	Monroe	Union	053	096850
D. J. Simmons and Co. Of La.	Monroe	State of LA	037	026950
Texas Pacific Oil Co.	Gillis-English Bayou	Goldsmith Farms	001	150116
Ted Weiner	Bayou Carlin	Humble Miami Corp.	001	059578
R. W. Williams	Caddo-Pine Island	Arkansas Fuel Co	003	022527

George L. Carmouche
Commissioner

9607#076

**CUMULATIVE INDEX
(Volume 22, Number 7)**

<i>Pages</i>	1996	<i>Issue</i>
1 - 75		January
76 - 158		February
159 - 264		March
265 - 322		April
323 - 410		May
411 - 526		June
527 - 676		July

ADMINISTRATIVE CODE UPDATE

Cumulative

- January 1995 - December 1995, 64
- January 1996 - March 1996, 313
- January 1996 - June 1996, 667

AGRICULTURE AND FORESTRY

Agricultural and Environmental Sciences

- Pesticide, 291N, 541ER
- Plant quarantine, 314P
- Retail floristry exam, 153P, 405P

Agricultural Commodities Commission

- Wheat, 414ER

Forestry, Office of

- Timber stumpage, 1ER, 121N, 325ER, 581R
- Seedling, 586N

Livestock Sanitary Board

- Animal disease, 414ER, 537ER
- Brucellosis, 462N

Structural Pest Control Commission

- Bait/baiting systems, 77ER
- Pest Management, 542ER

CIVIL SERVICE

Civil Service Commission

- Compensation, 377N
- Leave, 294N
- Prohibited activities, 121N

Ethics for Elected Officials, Board of

- Lobbyist registration/reporting, 542ER
- Small municipalities, 376N

CULTURE, RECREATION AND TOURISM

Secretary, Office of the

- State byways, 37N

State Library, Office of

- Certification, 241N
- Library construction/technology, 12R
- Name change, 241N
- Restructuring, 241N

ECONOMIC DEVELOPMENT

Boxing and Wrestling Commission

- Amend/repeal rules, 377N

Certified Shorthand Reporters, Board of Examiners of

- Disclosure, 445R

Commerce and Industry, Office of

- Enterprise Zone Program, 122N, 445R
- Quality jobs, 586N

Contractors, Licensing Board for

- Residential construction, 94R

Economic Development Corporation

- Small business, 415ER, 417ER

Financial Institutions, Office of

- Deed escrow, 187R

Racing Commission

- Bleeder medication, 12R
- Entry after excused, 13R
- Field less than eight, 13R
- First aid, 325ER, 378N
- Superfecta, 326ER, 379N
- Timing of entering, 13R
- Video Poker purse, 13R

Real Estate Commission

- Adjudicatory proceeding, 95R
- Compensation, 96R
- Insufficient funds, 161ER, 190R
- License/registration/certificate, 96R
- Symbols, tradenames, trademark, 96R

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 741

- Adult education, 97R
- Instructional staff, 130N, 338R
- Religion, 130N, 338R
- School administrators, 129N, 337R, 379N

Bulletin 746

- Business/office education, 463N
- Child welfare/attendance, 98R
- Foreign language, 38N, 277R
- Speech/language/hearing, 464N
- Vocational-technical personnel, 466N

Bulletin 1191

- School transportation, 467N

Bulletin 1196

- Breakfast, 242N, 452R
- Food service manager, 242N, 452R

Bulletin 1706

- Discipline, 2ER, 190R
- Exceptional children, 78ER, 421ER

Bulletin 1868

- Personnel Manual, 2ER, 327ER

Bulletin 1882

- Administrative Leadership Academy, 380N

Bulletin 1943

- Teacher assessment, 38N, 98R, 277R
- Dropout, 295N

Medication policy, 39N, 277R

Special Education Advisory Council, 99R

Technical college, 130N, 453R

Student Financial Assistance Commission

- Bylaws, 468N
- Federal Family Educational Loan Program (FFELP), 190R
- LEO credit, 593N
- Scholarship and Grant Manual, 40N, 338R

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

ENVIRONMENTAL QUALITY

Air Quality and Radiation Protection, Office of

- AQ126 Chemical accident, 161ER, 593N, 595N, 596N
- AQ128 Quality assurance, 14R
- AQ131 Organic compound emission, 14R
- AQ132 Petroleum refinery, 16R
- AQ133 Ambient air standards, 41N, 278R
- AQ134 Point of custody transfer, 44N, 341R
- AQ135 Reportable quantity of VOCs, 45N, 341R
- AQ136 Miscellaneous amendments, 42N, 338R
- AQ137 VOC Storage, 131N, 453R
- AQ138 Fugitive emission, 599N
- AQ139 Asbestos in Schools/State Buildings, 296N
- AQ141 Perchloroethylene removal, 301N
- AQ142 Crematories, 598N
- AQ126 Chemical Accident Prevention, 545ER
- NE015 Shielding exemptions NRC revisions, 380N
- Annual report, 668P
- Fugitive emission, 405P, 669P
- Inspection and Maintenance Program (I/M), 259P
- NESHAP, 669P
- NSPS, 669P
- Ozone attainment, 153P
- Permit procedure, 66P
- Regulatory agenda, 316P
- State Implementation Plan (SIP), 259P
- Title V Application, 316P

Legal Affairs and Enforcement, Office of

Emergency response, 153P

Management and Finance, Office of

OS20 Fee payment, 17R

Secretary, Office of the

- HW051 Land disposal, 327ER
- OS018 Emergency response, 381N
- OS14 Confidentiality, 342R
- OS20 Fee payment, 17R

Solid and Hazardous Waste, Office of

- HW45 Foreign hazardous waste, 20R, 100R
- HW48 Land ban, 22R
- HW050 RCRA IV federal, 618N
- HW053 EPA, 601N
- HW056 Waste minimization, 629N
- SW018 Ditches/air curtains, 278R
- SW019 Waste tire transporter, 3ER
- SW020 Waste tire, 162ER
- SW021 Waste tire, 422ER

EXECUTIVE ORDERS

- EWE 95-36 West Baton Rouge Parish Bond Allocation, 1
- EWE 96-1 TransAmerica Refining Corporation Bond Allocation, 76
- MJF 96-1 Affirmative Action, 76
- MJF 96-2 Interagency Action Council for the Homeless, 159
- MJF 96-3 Affirmative Action, 160
- MJF 96-4 Inmate Labor, 161
- MJF 96-5 Assistant District Attorneys Advisory and Review Commission, 265
- MJF 96-6 Safe/Drug Free Schools/Communities Advisory Council, 265
- MJF 96-7 Small Business Bonding Assistance, 266
- MJF 96-8 Louisiana LEARN Commission, 268
- MJF 96-9 Governor's DWI/Vehicular Homicide Task Force, 323
- MJF 96-10 Oklahoma City Bombing Anniversary, 323

- MJF 96-11 Housing Finance Agency Bond Allocation, 324
- MJF 96-12 Governor's Military Advisory Commission, 411
- MJF 96-13 Flying the POW/MIA Flag Over the State Capitol, 411
- MJF 96-14 Procurement of Small Purchases, 412
- MJF 96-15 Automobile Insurance Rates, 527
- MJF 96-16 Flying Flags at Half-staff for Americans Killed at Dhahran, Saudi Arabia, 528
- MJF 96-17 Medically Needy Program, 528
- MJF 96-18 Inter-agency Transportation Coordination Committee, 529
- MJF 96-19 Office of Business Advocacy, 530
- MJF 96-20 Substance Abuse Educational Program for State Employees, 530

FIREFIGHTERS' PENSION AND RELIEF FUND

City of New Orleans and Vicinity

- Cost of living adjustment, 100R
- Direct rollover, 243N

GOVERNOR'S OFFICE

Administration, Division of

- Commissioner, Office of
- Travel—PPM49, 302N, 423ER, 531PPM
- Facility Planning and Control, Office of
- Controversy resolution, 345R
- Selection procedure, 133N, 345R
- State Purchasing, Office of
- Procurement Code, 280R
- Uniform Payroll, Office of
- Payroll deduction, 22R

Community Development, Office of

- Consolidated Annual Action Plan, 153P

Crime Victims Reparations Board

- Victim compensation, 269ER, 302N

Oil Spill Coordinator's Office

- Contingency plan, 406P

HEALTH AND HOSPITALS

Chiropractic Examiners, Board of

- Conduct/ethics, 191R
- Financial interest, 191R
- Illegal payment, 191R
- Peer review, 191R

Citizens with Developmental Disabilities, Office for

- Consumer grievance, 134N

Dentistry, Board of

- Advertising/soliciting, 22R, 23R
- Continuing education, 24R
- Dental assistant, 22R
- Dental hygienist, 22R
- Hearing, 24R
- Licensure, 22R, 23R, 23R
- Parental consent, 23R
- Restricted license, 23R

Electrolysis Examiners, Board of

- Electrologist technician, 46N

Embalmers and Funeral Directors, Board of

- Exam, 154P, 316P

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

Licensed Professional Vocational Rehabilitation**Counselors, Board of**

License, 305N, 582R

Medical Examiners, Board ofClinical laboratory, 195R
Physician assistant, 200R
Physician/surgeon, 207R, 280R
Registered nurse, 244N**Nursing, Board of**Annual meeting, 103R
Domicile, 103R
Fee, 426ER, 472N
Registered nurse, 244N, 280R**Pharmacy, Board of**Pharmacy technician, 46N
Practice, 50N**Physical Therapy Examiners, Board of**

Licensure, 284R

Professional Counselors, Board of Examiners ofConduct, 631N
General provisions, 101R**Psychologists, Board of Examiners of**

Board address, 630N

Public Health, Office ofAbortion, 4ER, 25R
Bacteriological laboratory, 247N, 306N, 455R
Children's special health, 140N, 362R
Community based/rural health service, 472N
Human subjects, 147N, 368R
Office of Research Integrity (establishes), 140N, 362R
Sanitary Code
Lead poisoning, 384N
Mechanical wastewater, 307N, 582R, 641N
Molluscan shell, 328ER, 385N
Nutria, 26R
Seafood Inspection, 556ER**Secretary, Office of the**Ambulance, 285R
Annual service agreement, 214R
Case management, 79ER, 162ER, 170ER, 427ER, 556ER
Chiropractic care, 216R
Community care, 569ER
Dependent children, 426ER
Direct reimbursement, 429ER
Disproportionate share, 163ER, 430ER
Denture, 104R
Developmentally disabled, 433ER
Early Periodic Screening Diagnosis and Treatment (EPSDT), 104R, 571ER, 571ER
Emergency medical transportation, 105R, 105R
Ephedrine, 215R
Experimental procedure, 476N
Facility need review
Beds, 387N
Nursing facility, 387N
Federally qualified health center, 106R, 572ER
Home and community based services, 81ER
Home health agency, 641N
Home health services
Definitions, 572ER
Homebound criteria, 218R
Reimbursement, 218R
Hospital program
Inpatient, 106R, 219R
Median, 32ROut-of-state services, 33R
Outpatient, 33R, 573ER, 573ER
Reimbursement inflation, 33R**Informed consent**Female genital treatment, 29R
Hemodialysis, 30R
Maternity, 456R
Urology, 31R, 285R**Institutional services, 272ER**Intermediate care facility, 5ER, 369R
Investigational procedure, 476N
KIDMED, 106R
Laboratory, 5ER, 107R, 219R
Mammoplasty, 308N
Maternal and Child Health Block Grant, 387N
Medical equipment, 217R, 570ER
Medicaid, 50N, 370R, 370R, 388N, 441ER, 574ER, 583R**Medically needy, 434ER, 578ER**Mental health, 107R, 166ER, 456R
Mentally retarded, 433ER
Neonatology, 8ER, 248N, 583R
Nursing facility, 7ER, 34R, 34R, 271ER, 309N, 330ER, 369R, 435ER, 438ER, 669P
Nursing home, 477N, 645N**Pharmacy program**Benefits, 273ER
Copayment, 107R
Drug utilization, 273ER
Medicare B, 274ER
Overhead cost, 108R
Point of sale, 273ER
Reimbursement, 249N, 583R**Private ICF/MR facility, 184ER, 249N**

Professional service program, 108R, 330ER, 575ER, 575ER, 576ER, 577ER

Prospective Hospital Reimbursement, 574ER**Rehabilitation clinic, 109R, 577ER****Rural health, 109R****Substance abuse, 109R****Transplant, 185ER, 250N, 584R****Tuberculosis, 110R****Vaccine, 8ER, 259P, 334ER, 502N****X-ray, 5ER, 107R, 219R****Speech-Language Pathology and Audiology, Board of Examiners for**

Rules repeal/repromulgation, 346R

INSURANCE**Insurance, Commissioner of**Regulation 54 Automobile insurance, 68P
Regulation 55 Life insurance, 645N
Regulation 58 Viatical settlements, 148N, 404CR, 670P
Regulation 59 Health insurance data, 251N
Regulation 60 Life insurance, 651N**LABOR****Employment Security, Office of**

Electronic transfer, 9ER, 185ER, 254N, 520CR

CR—Committee Report

ER—Emergency Rule

N—Notice of Intent

PPM—Policy and Procedure Memorandum

EO—Executive Order

L—Legislation

P—Potpourri

R—Rule

Workers' Compensation, Office of
Assessment, 34R
Compliance, 220R, 285R, 503N
Filing, 34R
Forms, 221R, 503N
Fraud, 222R, 504N

LOUISIANA LEGISLATURE

Senate

Office of the President
Professional/occupational law/rules study (SR24), 520L

NATURAL RESOURCES

Capital Area Ground Water Conservation Commission
Water well permits, 656N
Conservation, Office of
Commercial facility application, 317P
Oilfield waste, 406P
Orphaned oilfield, 68P, 155P, 317P, 521P, 670P

PUBLIC SAFETY AND CORRECTIONS

Gaming Control Board
Chairman, 579ER
Definitions, 579ER
License, 579ER
Hearing, 579ER
Motor Vehicles, Office of
Driving school, 286R
Pardons, Board of
Clemency, 81ER
Private Investigator Examiners, Board of
Apprentice, 255N, 459R
Continuing education, 150N, 371R
Private Security Examiners, Board of
Board, 657N
Definitions, 657N
Investigations, 657N
Organization, 657N
Training, 657N
State Police, Office of
Bingo/keno/raffle, 110R
Handgun, 505N

REVENUE AND TAXATION

Alcoholic Beverage Control, Office of
Alcoholic beverage sampling, 116R
Excise Taxes Division
Dyed special fuel, 256N, 460R
Sales Tax Division
Alternate filing period, 512N
Motion picture rental, 514N
Nonprofit organization, 515N
Rental exemption, 516N
Secretary, Office of the
Electronic filing, 35R
Severance Tax Division
Natural gas, 317N
Tax Commission
Ad valorem tax, 117R
Timber stumpage, 1ER, 121N, 325ER, 581R

SOCIAL SERVICES

Community Services
Homeless, 260P
Social Services Block Grant (SSBG), 318
Weatherization, 318

Family Support, Office of
Aid to Families with Dependent Children (AFDC), 517N
Child support, 118R, 223R
Food Stamps, 52N, 275ER, 286R, 311N, 391N, 517N, 584R
Paternity, 10ER, 117R, 118R
Uniform Interstate Family Support Act, 224R
Rehabilitation Services, Office of
Policy manual, 660N
Randolph-Sheppard Trust, 119R
Secretary, Office of
Child Care and Development Block Grant, 406P

TRANSPORTATION OF DEVELOPMENT

Highways/Engineering
Rural water district, 228R
Signs, 224R, 228R
Professional Engineers and Land Surveyors, Board of
Registration for
Property boundary, 392N
Seals, 54N, 287R
Temporary permit, 53N, 286R
Sabine River Compact Administration
Spring meeting, 406P
Weights, Measures, and Standards
Legal limitation, 120R
Violation review committee, 151N, 372R

TREASURY

Bond Commission
Line of credit, 10ER
Reimbursement contract, 442ER, 661N
Housing Finance Agency
HOME funds, 335ER
HOME rental housing, 59N, 311N
State Employees Group Benefits Program, Board of
Trustees of the
Prescription, 54N, 287R
State Employees' Retirement System, Board of
Trustees of the
Rules codification/amendment, 57N, 373R
Teachers' Retirement System, Board of Trustees of the
Retiree's return to work, 58N, 290R

WILDLIFE AND FISHERIES

Fisheries, Office of
Commercial fisherman, 60N, 275ER, 373R
Dealer receipt, 60N, 275ER, 373R
Flounder, 276ER, 336ER, 518N
Mussel, 374R, 444ER
Net buy-back, 231R
Nets, 231R
Oyster, 120R
Pompano, 395N
Wildlife and Fisheries Commission
Alligator, 580ER
Bass, 61N, 376R
Black Drum, 83ER, 233R
Commercial fisherman, 85ER, 235R

CR—Committee Report
ER—Emergency Rule
N—Notice of Intent
PPM—Policy and Procedure Memorandum
EO—Executive Order
L—Legislation
P—Potpourri
R—Rule

Flounder, 83ER, 233R, 337ER, 519N
Hunting season, 258N, 585R, 663N
Mullet, 86ER, 236R
Mussel, 62N, 319N
Net buy-back, 88ER
Oyster, 90ER, 337ER
Physically-challenged hunter, 397N
Pompano strike net, 83ER
Red Snapper, 11ER, 186ER, 276ER, 445ER

Reef fish, 401N
Rod and reel, 90ER, 237R
Seining permit, 666N
Sheepshead, 83ER, 233R
Shrimp, 336ER, 580ER, 581ER
Spotted Seatrout, 91ER, 238R
Traversing, 240R
Timken wildlife management, 402N
Waddill Wildlife Refuge, 403N

CR—Committee Report
ER—Emergency Rule
N—Notice of Intent
PPM—Policy and Procedure Memorandum

EO—Executive Order
L—Legislation
P—Potpourri
R—Rule

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